The American Political Science Review

Vol. XIII NOVEMBER, 1919 No. 4

AMERICAN PUBLICITY IN ITALY

CHARLES E. MERRIAM

University of Chicago

The great war developed many new weapons—the submarine, the aeroplane, the long range gun, the tank, the deadly gas; but one of the most novel and deadly was the propaganda—the psychological working on the war will of the enemy. It was developed first and effectually used by the Central Powers against France, England, the United States, and with terrible results in Russia and Italy. But the Allies were not far behind, and by the close of the war had caught up with their foes and probably surpassed them. In the summer of 1918, the German press complained of the relative weakness of their propaganda, and declared the enemy's pen and propaganda were worse than his sword.

After the work of the Committee on Public Information, under Mr. George Creel, had been under way for a number of months in the United States, it was deemed advisable to establish branch offices of the committee in many European countries for the purpose of explaining the war aims and preparations of our country. Such offices were established in England, France, Italy, and eventually in some thirty-two foreign countries, in charge of Mr. Will Irwin and later of Mr. Edward Lisson. For the purpose of organizing the work in Italy, the writer was sent over by the committee, arriving in Rome about March, 1918, and returning in October.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The situation in the spring of 1918 was anything but favorable. The Italian army had suffered a disastrous defeat in October, 1917, in the battle of Caporetto. Italy had passed through a cold and hungry winter, and now the massive attacks of Ludendorff were smashing through the lines in France and Belgium. What made the situation still more serious was the fact that the Italian defeat at Caporetto had been caused to a large extent by enemy propaganda. For many weeks an elaborate campaign had been carried on in Italy against the war. Many letters were sent to soldiers urging them to return to their homes. Bogus copies of Italian newspapers were printed, containing stories of discontent and disturbance pointing to revolution all over Italy, and finally certain Austrian troops were brought down from the Russian border for the purpose of fraternizing with the Italians. These Austrian troops had absorbed the bolshevik idea of immediate peace, and had endeavored to communicate it to their Italian enemies. And at a critical moment they had been able to open up a gap in a strategic point on the Italian line. Thus in a very real sense the military results of hard fighting on the part of Italy for many months were almost undone by the subtlety and audacity of the enemy propaganda.

But this effort of the Germans and Austrians was not merely the work of a day. A generation back economic penetration of Italy by Germany had begun, and in the course of years had extended its ramifications through the industrial life of Italy from one end to the other. The industrial relations between Italy and Germany had been put on a most friendly and intimate basis, and were even closer than their political connections.

Again, the official Socialist party had refused to vote for a declaration of war or to assist the conduct of military operations in any manner. Some of the most notable leaders of the Socialists had broken off from the party and had formed a separate organization known as the Social Democratic party. But on the whole the strength of the organization remained unimpaired and it constituted a powerful nucleus of opposition to war during the entire period. Italian Socialism furthermore was not built on highly organized unions of labor, which under the industrial

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

conditions in Italy did not exist on a large scale, but found much of its strength in the rural regions where the peasants were bitterly opposed to the large land holdings of the proprietors and were taken with the cry of, "The land for the peasants." The traditional hostility between the church and the state in Italy did not improve the situation, so far as the solidarity of the national effort was concerned. The political leader of Italy, Giolitti, who was said to control two-thirds of Parliament, was bitterly hostile to war, and did everything in his power to prevent it. Only by a series of popular demonstrations did the Parliament finally yield to the overwhelming public sentiment, breaking the grip of Giolitti and assuming the responsibility for a declaration of war. The combination of Giolittians, Socialists powerful in rural as in urban districts, and underground business interests, was a powerful one, and made itself felt in weakening the war will of Italy.

This powerful combination worked upon a much weakened people. No nation made greater sacrifices in the European war than did Italy. Not a rich state, and meeting its financial obligations with difficulty in times of peace, the extra war burden was carried by the Italians only with the very greatest difficulty. Not having coal nor steel nor oil, from the outbreak of the war Italy suffered the lack of these vital necessities of modern industry and of modern war. On the other hand, their exports of fancy cotton and silk goods, fruits, wines and art products were largely cut off, partly through failure in production, partly through lack of a market, and partly from lack of shipping facilities. The result of these combined forces was a tremendous economic pressure upon Italy to end the war. Continuance was made possible only by heroic sacrifices in which every man, woman and child participated. In a very literal sense the Italian people all took part in the war. Not only were five million men mobilized, but many others were drawn into war industries, leaving the ordinary work to be performed by old men, boys and women. The shortage of coal was made good by endurance of cold. The shortage of food was made good by hunger. Adding to all this the wide extent of German influence, the Italian catas-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

trophe in October and the grave reverse of the Allies in March, it is easy to see that the Italian situation was perilous in the extreme. The Central Powers confidently expected Italy to go the way of Russia, before the end of 1918, as a result of military defeat and internal disintegration.

It was believed by many that the most effective way of maintaining the morale of the Italian people, and the only way, would be to spread among them the news of the war preparations and the war purposes of the United States. Of these they were largely uninformed, and in general were highly skeptical. The anti-war propaganda constantly spread among the people such arguments as these: That the Americans were an industrial people and unwilling to enter into war! that America had no army and did not desire one! that she could not raise an army if she wished! that if there were an army it could not be transported owing to the shortage of shipping and the activity of the submarine! and finally, that if there were an army and if it were transported, it would not be a formidable military weapon because of the inexperience of the soldiers and the officers. The Americans, they said, will probably be willing to lend Italy more money, which must some day be repaid, to send over perhaps a larger amount of ammunition or of supplies, or even to send a division or two of troops, who would endeavor to make noise enough for an army. But that as an actual fighting factor in the war the United States was negligible. It was also whispered around that the United States had sinister purposes in entering the war—the capture of European commerce, the annexation of territory, or some other unspecified kind of compensation, sure to be demanded in the end.

It was to meet these arguments that the office of the Committee on Public Information was established. Its general principle and method of procedure was very simple; namely, to tell as quickly to as many people as possible, in as vivid a way as possible, the story of America's war preparations and war purposes. Proper execution of this plan, it was confidently believed, would go a long way toward improving the confidence of the Italian people in ultimate victory, and strengthen their tenacity

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in continuing the conflict. As On. Galenga, in charge of the Italian foreign propaganda, said at our first interview: "I hope you can produce such a situation that when one says to the average Italian, 'You know America is coming into the war,' he will reply, 'Basta—enough.'" "At the present time," he added, "almost everybody doubts it."

The Italian government, as is well known, was a coalition government, put together for war purposes. Its head was On. Orlando, professor of political science in the University of Naples, for many years a member of Parliament, a brilliant orator and of liberal tendencies. The minister of foreign affairs was Baron Sonnino, an active factor in the building of modern Italy—English, Jewish and Italian in race, conservative in tendency and skilled in diplomacy. The secretary of the treasury was On. Nitti, professor of political economy in the University of Naples, of broad parliamentary experience, representing the liberal financial elements of Italy. The Socialist party was represented by On. Bissolotti, minister of pensions. This varied combination of political interests and elements was valiantly leading the desperate struggle of Italy during the most difficult days of the war.

Italian propaganda was organized in three branches: the external or foreign propaganda was in charge of On. Galenga; the internal propaganda was in charge of On. Commandissi; and the army propaganda was in charge of Col. Siciliani. In the conduct of its work the committee was in close touch with all of these officials, particularly, of course, with the propaganda office, and received from them the most cordial coöperation and support.

We also worked in coöperation with the diplomatic staff under Ambassador Page, and the consular staff of the American government, with the military mission, and, later, with the American regiment. The American Red Cross, under Col. Perkins, and the Y. M. C. A., under Dr. Nolles, were, of course, not intended for propaganda purposes, but were of great assistance in many ways. British and French representatives were also helpful at various points, and always cordial in their relations.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Our office staff of some fifty persons was organized in four departments: (1) the department of the press; (2) the department of speakers; (3) the department of pictures; and (4) the Austro-Hungarian service. Our staff included officers detailed from the American and Italian armies, and various others. Among the Italians who were most active were Capt. Cohen, a journalist, Capt. Tozzi, Lieut. Pecorini, author of *Gli'Italiani in America*, and Contessina Loschi.

The news service was placed in charge of Mr. John Hearley, who had been for a number of years the United Press representative in Italy, and was unusually well equipped and effective. This division received daily, either by cable or wireless from the New York office under Mr. Walter Rogers, a news service which was distributed to the various papers of Italy through the Agenzia Stefani, the largest press association of the country. These daily news items were also mimeographed and about two hundred copies mailed to certain persons in military, journalistic, educational and governmental circles. The committee received and distributed also a weekly feature service known as the Poole Service. On the basis of this various articles or material for articles were supplied to Italian newspapers or magazines. In April, American news had been almost entirely lacking in the Italian papers, but as a result of the committee's campaign, very wide publicity was given to the war preparations in America. Not only the military preparations, but shipbuilding, food conservation, Liberty Loans, Red Cross work, and many other types of civilian service were emphasized; and also the spirit of the war movement in America. Interviews were obtained from many prominent persons regarding the work undertaken by the government and the temper of the people. Especially helpful were strong statements from Cardinal Gibbons, Cardinal Farley and Cardinal O'Connell.

One of the anti-war features that caused most trouble was the Mooney case. The anti-war party had made much of this, and scarcely a day passed that some local labor union did not adopt a resolution requesting the American government to free Mooney and prevent his being made the victim of capitalists. To cover

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

this case a cable was secured from Mooney himself in which he declared that while he felt an injustice was being done him it was not the fault of the President, that he believed he would eventually receive justice, and that he hoped none of his friends in Italy would use his case as a basis for German propaganda. This did not still the waves but it quieted them.

In order that the accounts of American war preparations might be made more real and genuine to the Italians, the Italian foreign propaganda office was invited to select a number of representative Italian journalists to visit America as guests of the committee and to be shown in detail all of the war preparations. This was agreed to, and some eight representative newspaper men were chosen and made the tour of America under the direction of the Committee on Public Information. They saw America at a highly favorable moment, and brought back most enthusiastic accounts not only of the large-scale preparations but of the spirit and enthusiasm of the people. In return, a delegation of American journalists was invited by the Italian government to visit Italy and describe the war work of that country; but before this project could be carried through the armistice cut short the work. In the same connection, it may be pointed out that the committee suggested the beginning of the campaign of letter-writing on the part of former citizens of Italy. This idea was taken up and carried out, and as a result thousands of letters were sent back to Italy describing the war work and war spirit of America and bringing conviction to those who doubted whether the United States would really take an active part in the war.

In this work of publicity the committee obtained the cordial coöperation of the Italian officials and of the Italian journals. Many of these publishers were visited personally and the purpose of our mission and our method of procedure were explained to them. We received many extremely valuable suggestions from them, and in fact would have found it difficult to make any progress without their very generous and friendly support. We explained to them that the committee was not there to advertise America but to help win the war, and we invited counsel as to the best procedure to bring this about. Some of the journals, notably *L'Avanti*, the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

leading Socialist organ in Italy, were bitterly opposed to the war, but even *L'Avanti* used much of the committee's material which had distinct news value, even though it did not help the general policy of the paper. Under the news department were also circulated a number of pamphlets, and a small booklet was published containing the leading facts regarding America's war undertakings. Later, on the receipt of a great many requests, extracts were printed from the speeches of President Wilson, for which the demand could never be satisfied. In general, however, the newspapers and periodicals were found more effective than the pamphlets, of which many different types in large quantities had already been printed and circulated particularly by the Italian and English governments.

The department of speakers was in charge of Professor Altrocchi, professor of Italian in the University of Chicago. In this work he was very ably assisted by Mr. Kingsley Moses. This department reached thousands of Italians in all parts of the country by word of mouth—our estimate is one million. Some of the speakers were sent over from America for the express purpose of aiding the committee; others were obtained through the courtesy of the Y. M. C. A. and the Red Cross; and we had also a number of native Italian speakers. Among those who came from America were Congressman La Guardia (in the aviation service), Senator Cotillo of New York, Arthur Bennington of the New York *World*, Judge Ben Lindsey, Professor Sartorio, Professor Panuzio, Judge Cravates, and Nelson Gay. These speakers at first covered the larger cities. Later they were routed to cover various local sections in greater detail. Professor Altrocchi personally spent much time in Tuscany, Senator Cotillo in Naples and vicinity. Panuzio made a tour of Sicily. Mr. Bennington covered the Umbria, Romagna and other territory. Various sections of northern Italy were covered in the same way. Professoressa Ranconi, a prominent Italian social worker, rendered excellent service in the crowded sections of the cities, and also among peasant women and school children. With a number of her associates she held frequent conferences in popular halls, workshops and rural centers. Wherever possible

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

moving pictures or lantern slides were used to illustrate these discourses. Through these speakers thousands of Italians were informed directly of the war work of the American government in detail. All speakers were instructed to deal simply with bare facts as to preparations, and also as simply as possible with the underlying purposes of America in entering the war. Facts regarding the American war participation were also supplied to many Italian speakers, who made good use of them. These speakers were not under the jurisdiction of the committee, and the only relation we had with them was that of cordial coöperation in the common cause.

It was the purpose and intent of these measures to bring home personally to as many Italian citizens as possible a detailed story of the actual work being done by America in preparation for a victorious finish. In this the committee was successful, for we not only reached thousands of hearers but naturally the news traveled rapidly throughout the neighboring communities, and where a thousand people heard a speaker fifty thousand learned the news.

One of the practical and amusing tests of our work occurred in Florence. Professor Altrocchi was listening one day to a street speaker who offered to talk on any subject, and at the close of his little speech would take up a collection. Professor Altrocchi asked him to speak on the United States and the war, whereupon he proceeded with an eloquent discourse using the standard facts and figures of the Committee on Public Information.

The department of pictures—moving and still—was designed to show graphically the war work in America. Unfortunately there are thousands of persons in Italy who do not read or write, and there are thousands more who have not much time to read. And there, as everywhere, the appeal to the eye is the most direct, striking and effective. Our moving pictures included a considerable variety of American war, industrial and agricultural films. These were revised and retitled and circulated on a considerable scale. Some of them were shown by our own speakers, others by the Italian military authorities at the front, others by the Y. M. C. A., others by various patriotic associations, and of

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

still greater importance were the exhibits made by the Italian cinema houses. This department supplied the "Inter-Allied Weekly," the official "Pathe" of the Italian government, with film material for display in features throughout Italy, and other films were used through the efforts of the American consuls. The films showing the transformation of American recruits into soldiers and their arrival in France were particularly well received. The American war pictures from France, especially after Chateau-Thierry, were usually welcomed with wild enthusiasm. This part of the work was in charge of Lieut. Wanger and Mr. Cordner.

Under this department there was also a widespread distribution of photographs, post cards and other miscellaneous material, in charge of Mr. Byron M. Nestor, an American artist in Italy. Naturally the Italian is a great lover of pictures, and the American war photos always drew a crowd when they were exhibited in conspicuous places on the streets. There seemed to be no end to the request for post cards containing photographs of American soldiers, of General Pershing, and of President Wilson. Italian soldiers in particular were eager for the post cards, and in order to facilitate their use the committee arranged with the Italian government to frank the cards. Reprints from American photographic displays were exhibited in some three thousand Italian towns and cities, while some sixteen thousand towns and cities were reached by this department in various ways. Italo-American ribbons and buttons, American war posters, American flags were sent out by the thousand—over thirty thousand copies of "The Star Spangled Banner," which every Italian band learned to play. A small riot occurred in front of our office at one time when American flags were being handed out. A procession of Italian boy scouts was passing and some unauthorized person threw out a number of small flags, thereby breaking up the parade and requiring the services of the police.

With the soldiers at the front the situation was more difficult. Those who had been fighting in the trenches for three years were not interested in speeches and pamphlets. Fighting under very great difficulties in the mountain region, they had performed marvelous military feats, not yet fully appreciated, because not

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

fully told. Suggesting to General Diaz one day that greater publicity be given to their military men and measures, he replied that the Americans might think he was using Barnum's methods. The full story of the initial difficulties, the catastrophe and its check at Caporetto, of the Austrian defeat on the Piave in June, 1918, and the memorable victory in October, has never been fully told; but when it is, much greater credit will be given the Italian army than is now accorded.

During the war period the soldiers developed a psychology all their own. The Italian government, however, after the battle of Caporetto, had systematically and vigorously undertaken to improve the morale of the army. For this purpose some of the best psychologists of Italy were employed. We were in close touch with them, and did everything in our power to help the situation. General Diaz, Colonels Aymonino, Siciliano and Grossi were much interested in our work, and keenly realized its significance. They knew the bitter fruits of enemy propaganda. We assisted in the publication of some of the "trench papers," supplied American war films, and in various other ways coöperated with the Italian government.

It was soon apparent, however, that the most effective propaganda was the American uniform, and with this in mind we bent every effort to securing some force of American troops. The American ambulance unit landing at Genoa in July was received with astounding enthusiasm. Practically the entire population of Genoa came down to the water's edge to greet them. The arrival of the 332nd regiment under Colonel Wallace, a little later, was also a signal for enthusiasm throughout Italy. They proceeded at once to the front, but as far as possible we endeavored to meet the demand for small detachments at various points in Italy. All those of Italian origin obtained "leave" to return to their respective homes in Italy, where their appearance was most effective. We also secured the detail of a number of soldiers from the American Expeditionary Forces in France. These were men of Italian origin who had been wounded, and who were given "leave" to come to Italy. That they convinced their local villages and cities of the participation of America in

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the war there can be no doubt, and if we could have secured a larger number of them we could have closed the argument very promptly.

Many other activities were undertaken by the Committee on Public Information in Italy. We suggested the American celebration of the 24th of May, the third anniversary of Italy's entrance into the war; and the general participation in this celebration throughout America meant much in Italy, for the Italians justly felt that their great part in the war had not been fully appreciated. The committee undertook and organized, with the coöperation of the Italian authorities, the celebration of the Fourth of July in Italy. Immense crowds assembled in all the principal cities of Italy and the enthusiasm was indescribable. There were about one hundred thousand people assembled in Rome, fifty thousand in Milan, thirty thousand in Florence, and proportionate numbers in other great centers of Italian population. We were greatly assisted in this work by the Mutilati, an Italian association of wounded soldiers, whose enthusiasm and energy were unwearying. They were one of the most effective pro-war organizations in the country, for they spoke on behalf of thousands who had shed their blood for the Italian cause, and who could speak from the basis of a definite sacrifice.

The most tenacious and sincere opposition to the war in Italy came from the official Socialist party. They were unyielding in their hostility to any form of war activity. Their formula was "neither help nor hindrance" to the war. To deal with this situation we spread abroad as much material as possible regarding the pro-war activities of American labor. Later, at our request, the American Socialist commission, visiting in England and France, came to Italy. The chairman of this commission was Arthur M. Simons, and the other members were Charles Edward Russell, Louis Kopelin, editor of the *Appeal to Reason*, John Spargo, president of the American Social Democratic Federation, and John Howitt, president of the Kansas Miners' Union. Public meetings were arranged for this commission in the leading cities of Italy, and conferences between them and the anti-war Socialists. Several important meetings were held, particularly in the indus-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

trial centers of Milan and in Bologna, an anti-war stronghold. It cannot be said that any of the leaders of the anti-war Socialists changed their position as the result of the work of this commission, but certainly many of their followers were impressed with the undoubted sincerity and ability of the American representatives who spoke for American labor.

Mr. Spargo remained in Italy for two months, and very vigorously and effectively followed up the work begun by the commission. By speeches, by conferences, and by writing he kept up a continual controversy with the anti-war Socialist group. Mr. Samuel Gompers was also invited to visit Italy, and while there toured the principal cities. He was in a position to speak authoritatively as head of the American Federation of Labor; and in this capacity proclaimed the reason for labor's participating in the war, and denounced in vigorous language the opposition. The effect of the combined Socialist and labor delegations was undoubtedly great. Coinciding in time with some of the most idealistic of President Wilson's speeches, they tended to make a deep impression on any who were wavering as to the justice of the war.

The fourth section of the office in Italy was never thoroughly organized. Its duties were to carry on the American propaganda into Austria. It was not possible to obtain help for this work until August, although conferences were held with the board at Padua which had charge of this work, and some of our material was used by them. Professor Edgell, of Harvard, arrived in August, and under the direction of the office in France began the work, which, however, was not completed for lack of time.

That the work of the committee helped to hearten the Italian people in a critical period of the war there can be little doubt. The final victory at the Piave, under General Diaz, showed conclusively that they did not lack either fighting spirit or technical ability. Notwithstanding their cruel sacrifices they were able to rally from what for a time seemed definite defeat. The June offensive of Austria was intended to complete the battle of Caporetto, destroy the Italian army, and eliminate Italy as a factor in the war. The writer was at the front at the time, and cer-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tainly the issue was for some days doubtful. At one time, an advance of half a mile by the Austrian troops would have inflicted a mortal wound upon Italy; but the Italian troops stood fast and in the end stopped the offensive, drove the Austrians across the Piave, and gave them a bloody check. Had the Italians possessed sufficient reserves at that time they could have followed up the victory and finished the enemy then and there. On October 24, the anniversary of the terrible defeat at Caporetto, General Diaz struck back at the Austrians, and after a severe struggle annihilated their forces. This was their final answer to the insidious efforts of the Central Powers to break down their morale.

The work of the Committee on Public Information in Italy shows the great value of international publicity. The simple work of systematically and vigorously sowing the facts proved to be of great political and military significance. Our information did not consist of lies, misstatements, half truths, or exaggerations. Our only inaccuracy consisted in understating the magnitude of American preparations. We felt that since America had a reputation as boasters it would be better to understate than to overstate, and were greatly pleased to receive, after having been in Italy for some months, a friendly criticism from an Italian who declared that the information we were furnishing did not reveal the full strength of America's effort.

Italy was won, however, not merely by military facts, but by American idealism. After we had been in Italy two months, the editor of one of the most powerful papers in the nation, when asked what progress we had made and for suggestions for improvement, replied, after many hesitations and apologies: "They say that while America is doing much she is not hurting herself. They say that you are (using an old Italian phrase) 'giving away your old clothes.' Italy is impressed with the strength and power of America, and delighted at a new ally, but thus far you have not touched the heart of Italy." But after the battle of Chateau-Thierry, when the fighting quality of the American troops was first revealed, and after the flood of "Crusaders," as they were called, had reached the million announced on the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Fourth of July, the enthusiasm of the Italians increased. And when the war purposes and ideals of America were stated in repeated messages in papers by the President, then the emotions of Italy were touched. They were doubly impressed by the fact that America, so far distant from the seat of war, so prosperous as a neutral, with nothing to gain in the way of territory, was willing to undertake, across three thousand miles of sea, an assault upon militarism and autocracy in an attempt to make the world safe for democracy and to organize the world in a League of Nations for a permanent peace. To them this appealed more strongly than the dollars or the supplies or the soldiers of America, and its effect upon the morale of the struggling and somewhat discouraged people cannot be denied.

If anything like the amounts of money expended upon military preparations were employed in the scientific study and removal of international misunderstandings, the world would be more prosperous and more peaceful. Without undertaking to say just what machinery should be used, in some organized way the perpetuation of international good will and the removal of international misunderstandings should be carried out on a large and continuing scale. International misunderstandings menace our industrial, political, social and national ideals and progress. International sympathy and understanding can be fostered and developed, systematically and persistently, and here lies the broad road to peace. Without these understandings no machinery for peace can succeed; but with them the goal is in sight.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

EFFECTS OF THE LEAGUE OF NATIONS COVENANT

QUINCY WRIGHT

University of Minnesota

EFFECT UPON INTERNATIONAL LAW

The League of Nations covenant is designed to "promote international coöperation and to achieve international peace and security." To accomplish the first it provides organs of conference and recommendation and coördinates the numerous international unions already existing with some new ones. To accomplish the second, the members of the league covenant to refrain from acting or to act in a specified manner, in specified circumstances. "Scrupulous respect for all treaty obligations" is emphasized; thus in relation to the treaty of peace of which it is a part, the covenant is comparable to the various forms of oaths, hostages, and guaranties of previous peace treaties.[1]

No intention of modifying international law is expressed. On the contrary "the understandings of international law" are to be firmly established "as the actual rules of conduct among governments." In fact, however, the character of law is dependent upon the character of its sanction. Law and organization are interdependent, and the covenant when put in operation will modify international law, though less in its specific rules than in certain assumptions upon which they have heretofore been supposed to rest.

By accepting the league, states recognize that their existence depends upon the general maintenance of law, and consequently that they must prefer the claim of that law for defense, as against the lure of an immediate national profit.[2] Thus, though inter-

[1] Phillipson, *Termination of War and Treaties of Peace*, 1916, pp. 207–213.

[2] "For as he that violates the laws of his country for the sake of some present advantage to himself, destroys that which is made for the perpetual security of what himself or his posterity shall be able to acquire; so that people which

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

national law will continue to aim at preserving the independence and autonomy of states, it must assume that its own preservation is more important.[3] It follows that international law can no longer be conceived by text writers as a series of deductions from an assumed "fundamental right of states to exist."[4] The responsibility of states to assure the existence of the law will have to be conceived as even more fundamental.

Solon is reported to have said:[5] "That commonwealth is best administered in which any wrongs that are done to individuals are resented and redressed by the other members of the community, as promptly and as vigorously as if they themselves were personal sufferers." International law has been slow to apply this aphorism to the commonwealth of independent nations. Grotius insists on the right of nations to make war in case of a violation of law not immediately affecting them,[6] and hints that virtue may on occasion "direct and encourage" such action,[7] but he does not discuss the circumstances in which nations should regard effective action as a responsibility. A few writers[8] have asserted the applicability of Solon's principle to the society of

violates the Laws of Nature and Nations break down the bulwarks of their future happiness and tranquillity." Grotius, *De Jure Belli ac Pacis*, Proleg., sec. 18. See also Proleg., sec. 23; Vattel, *Le Droit des Gens*, Prelim., sec. 22; I Corinthians 12: 26.

[3] "Public international law proposes to reach a compromise (*transaction*) between two actions, contrary in fact, that of the principle of autonomy of states, and that of the notion of the cosmopolitan society. Neither of these two principles ought to supplant the other, nor to be put completely to its practical application." Bonfils, *Manuel de droit international public*, 6th ed. (Fauchille), Paris, 1912, sec. 24, p. 10. These opposites may be synthesized in a more fundamental principle than either, maintenance of the law defining the compromise.

[4] Hall, *International Law*, 7th ed. (Higgins), London, 1917, sec. 7; Wilson and Tucker, *International Law*, 7th ed., 1917, p. 73.

[5] Plutarch, *Solon*, sec. 18, quoted by Grotius, op. cit., I, c. 5, sec. 2.

[6] Op. cit. II, c. 20, sec. 40, par. 1, 4; c. 25, sec. 6. See also, Hall, op. cit., sec. 92, p. 298; Bluntschli, *Le droit international codifie*, secs. 471, 478.

[7] Op. cit. II, c. 24, sec. 1; I, c. 5, sec. 1.

[8] Creasy, *First Platform of International Law*, London, 1876, p. 44; Sheldon Amos, *Jurisprudence*, London, 1872, pp. 411, 456; Kaltenborn, *Zeitschrift für die gesamte Staatswissenshaft*, (1861), vol. 27, p. 86, quoted by Schücking, *The International Union of the Hague Conferences* (trans. C. G. Fenwick), N. Y., 1918, p. 46; Scott, *American Journal of International Law*, vol. 10, p. 343.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

nations and there have been a few cases of protest[9] or even intervention on the grounds of a general interest in the maintenance of law,[10] but in 1916 Secretary Root thought that for nations "to protest against the breaking down of the law" where they were not directly involved "would be a change in theory."[11] The practice has been to regard violations of international law by states as torts to be remedied by the immediate sufferer; not as crimes for the suppression of which all members of the community are responsible.[12]

A shifting of emphasis from rights of states to responsibilities of states is the fundamental change which the covenant will make in international law. A few specific changes, all deducible from this, may be mentioned.

Title by Conquest. "Non est justa causa belli, amplificatio imperii"[13] wrote Victoria in the sixteenth century. Threecenturies later the Supreme Court of the United States, though admitting the right of conquest under international law, asserted that "a war . . . . declared by congress, can never be presumed to be waged for the purpose of conquest or the acquisition of territory;" consequently the President cannot enlarge the boundaries of the United States by his authority as commander-in-

[9] Protests by France, Austria and Prussia to United States in Trent Case, Supp. *American Journal of International Law*, Vol. 10, pp. 67–72; by United States to Germany in case of Belgian deportations, *ibid.*, Special Supplement, Vol. 11, p. 251. Protests based on humanity or political sympathy have been more common and are of more doubtful propriety, see Hall, op. cit., sec. 92; Moore's *Digest*, Vol. 6, pp. 32, 349, 359, 363; Green, *American Interest in Popular Government Abroad*, U. S. War Information Series, No. 8 (1917).

[10] This was assumed to be the basis of the interventions of the quadruple alliance of 1815, see Declaration of Aix la Chapelle, Nov. 15, 1818, Great Britain, *Parl. Pap.*, 1819, Vol. XVIII, p. 351. Gladstone referred British interest in Belgian independence to the general European interest in the maintenance of public right, Aug. 10, 1870, Hansard, Vol. 203, p. 1786. See also speeches of Sir E. Grey, Aug. 3, 1914, *Parl. Deb.*, series 5, commons, Vol. 65, p. 822, and of Pres. Wilson, Apr. 2, 1917, *Cong. Rec.*, Vol. 55, pp. 102, 118.

[11] Though a change he approved, *American Journal of International Law*, Vol. 10, p. 9.

[12] *Ibid.* See also Bluntschli, op. cit., sec. 464.

[13] Victoria, *Relectiones Theologicae* (1557), ed. 1696, p. 428, Classics of International Law series, pp. 170, 278, 428.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

chief of the army.[14] The Monroe Doctrine asserted that "the American continents . . . . are henceforth not to be considered as subject for further colonization (a fortiori, conquest) by any European powers;"[15] and a resolution of the Pan-American Congress of 1890 declared that "The principle of conquest shall not during the continuance of this treaty of arbitration be recognized as admissible under American public law;"[16] but the resolution was inoperative because of failure of the arbitration scheme, and international law has continued to recognize conquest as a source of good title, though qualified by the requirement that there be "a 'cession' either expressed or implied on the part of the dispossessed state or else (where the whole of a state is affected) a 'completed conquest' . . . . in the sense of 'firm possession' on the part of the conqueror, coupled with 'intention' and 'ability' to hold the territory so acquired."[17]

This right of conquest is abolished as respects members of the league, by article X of the covenant, which forbids, not only direct conquest, as by "external aggression" against the "territorial integrity" of a member, but also veiled conquest as by "external aggression" against the "existing political independence" of a member. This appears to be the main effect of this much mooted article. If its inapplicability to revolutions were not made obvious by use of the words "external aggression," it would be made so by comparison with the interpretation given the guarantee in a treaty of 1846, of "the rights of sovereignty and property which New Granada has and possesses" over the Isthmus of Panama, by the United States state department in 1904. "The theory," wrote Secretary Hay, "that the treaty obliged the government of the United States to protect the government of New Granada against domestic insurrection or its consequences, finds no support on the record and is in its nature inadmissible."[18]

[14] Flemming v. Page, 9 How. 603 (1850).

[15] Moore's *Digest*, Vol. 6, p. 402.

[16] *Ibid.*, Vol. 1, p. 292.

[17] Cobbett, *Leading Cases on International Law*, London, 1913, Vol. 2, p. 245.

[18] Secretary Hay to Mr. Reyes, Jan. 5, 1904, Diplomatic History of the Panama Canal, Washington, 1914, 63rd Cong., 2nd Sess., Senate Doc. No. 474, p. 503.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Intervention. "Its essence," said Sir Vernon Harcourt, speaking of intervention, "is illegality,"[19] and publicists have agreed that international law imposes the obligation of nonintervention.[20] Hall thinks that intervention ought not to be legal "except for the purpose of self-preservation, unless a breach of the law as between states has taken place or unless the whole body of civilized states have concurred in authorizing it."[21]

These last two exceptions are recognized as law by the covenant, which authorizes intervention to prevent conquest (art. X) or to prevent a resort to war without preliminary efforts at pacific settlement (art. XVI), and provides that the league may authorize intervention in case of failure to carry out an arbitration award (art. XIII) or a unanimous[22] recommendation in cases submitted to conciliation (art. XV).

Equality. "No principle of general law is more universally acknowledged than the perfect equality of nations. Russia and Geneva have equal rights,"[23] said Chief Justice Marshall. "Relative magnitude," said Lord Stowell, "creates no distinction of right; relative imbecility, whether permanent or casual, gives no additional right to the more powerful neighbor; and any advantage seized upon that ground is mere usurpation."[24]

During the second Hague Conference the attempt to create a permanent international court was frustrated by the insistence of the small states upon equal representation on such a body. For an effective administrative, executive or judicial body, equality of representation is obviously impractical in so large a group as the family of nations. In some international unions the principle of equality has been abandoned, even in the congress, by

[19] *Letters of Historicus*, p. 41.

[20] Wilson and Tucker, op. cit., p. 87.

[21] Hall, op. cit., sec. 92. See also footnotes 8, 9, 10 *supra*.

[22] If referred to the council, but if referred to the assembly the recommendation need be concurred in only by the representatives of members of the league represented on the council and a majority of other members of the league, in both cases with exception of the representatives of the parties to the dispute.

[23] The Antelope, 10 Wheat. 66, 122 (1825).

[24] Le Louis, 2 Dods. 217 (1817), Scott, *Cases*, p. 357.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

giving weighted votes in proportion to financial contribution or extra votes to colonies.[25] In the covenant equality of representation is abandoned in the council, but retained in the assembly, except for the vote given to five British colonies.

Whether this impairs the equality recognized by international law may be questioned. Equality before the law does not imply equality in political weight or administrative authority. Quite the reverse. Where each state supplies its own remedy, equality before the law is jeopardized. But to attain equality of remedy, organization is necessary, and effective organization implies distinctions in administrative authority and, under present conditions, of political power. The dominance of the "concert" in Europe and of the United States in the Americas during the nineteenth and twentieth centuries, and of Japan in the Far East during the twentieth century supplied crude organizations for this purpose. The position given these powers in the council is but a recognition of established fact.

Political inequality has been recognized, not only in practice but in theory. Thus Grotius saw that "attributive justice" which gives to each according to merit, need or fitness must be recognized, as well as "expletive justice" which assures equal protection of rights.[26] Other writers clearly recognize that political inequality is compatible with legal equality.[27]

By assuring all states adequate protection of the law, although by means of an organization recognizing inequalities in political influence and administrative authority, the equality to which Marshall and Stowell referred is rendered more secure.

Right to Make War. "The law of nations allows every sovereign government to make war upon another sovereign state." So states Lieber's Code,[28] and the rule has been accepted by text

[25] Sayre, *Experiments in International Administration*, N. Y., 1919, pp. 23, 30.

[26] Grotius, op. cit., I, c. 1, sec. 8, par. 3.

[27] Cobbett, op. cit., Vol. 1, p. 50; Wilson and Tucker, op. cit., p. 98; Lawrence doubts even legal equality, but he gives the term a wider sense than here intended (*Principles of International Law*, 4th ed., N. Y., 1910, sec. 114).

[28] U. S. Army, General Orders, No. 100 (1863), art. 67.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

writers[29] since the ancient discussions as to *justa causa belli* became obsolete. Recent conventions have modified this principle by requiring certain formalities before war, as a formal declaration[30] or a period of delay,[31] or by limiting the objects for which war may be declared. Thus, effort has been made to forbid war for the recovery of contract debts[32] and for the settlement of justiciable controversies.[33]

These two types of limitation have been so extended by the covenant that for members of the league the principle has become the exception. Thus war can never be made without a preliminary delay of from three to nine months for conciliation or arbitration (art. XII) and war cannot be made at all for conquest (art. X) or to settle controversies "recognized by the parties as suitable for submission to arbitration" (art. XV) or upon which a unanimous[34] decision is given on submission to conciliation (art. XV).

Right to be Neutral. "The right of every independent state to remain at peace while other states are engaged in war is an incontestable attribute of sovereignty."[35] This opinion of Wheaton would have been received with astonishment in the middle ages. "No member of the World Empire could be other than directly interested in the internecine strife which interfered with the harmony of the association (and) no Christian . . . . could stand neuter in the battle of orthodoxy against heresy or of Christendom against the Saracen."[36] Later, statesmen followed the advice of Machiavelli,[37] that it is not only "more frank

[29] See discussion on question of Chinese delegate at the second Hague Conference as to effect of a refusal to accept a declaration of war, in Higgins, *The Hague Peace Conferences*, Cambridge, 1909, p. 205.

[30] III Hague Convention, 1907.

[31] Wilson-Bryan Peace Treaties, concluded by United States with 20 states, 1913–14.

[32] II Hague Convention, 1907.

[33] I Hague Convention, 1907, arts. 1, 38. United States arbitration treaties, concluded with about 20 states, 1908–09, See Malloy, *Treaties*, etc., p. 814.

[34] See footnote 21, *supra*.

[35] Wheaton, *Elements of International Law*, 8th ed. (Dana), 1866, p. 509.

[36] Walker, *History of the Law of Nations*, 1899, Vol. 1, p. 135.

[37] *The Prince*, ch. 21.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and Princely" but also "more profitable" to declare war than "to stand neuter," and not until recognized members of the family of nations were established in physical isolation was the right of remaining neutral really enjoyed.[38] Though Mazzini[39] characterized "neutrality in a war of principles" as "the negation of the common law of nations, political atheism" and spoke of the injunction to remain neutral in such a war as "the word of Cain," the right has been generally recognized during the nineteenth century.

Under article XVI of the covenant, this right no longer exists for members of the league in wars resorted to in disregard of articles XII, XIII, and XV of the covenant. Although the actual making of war is discretionary, members of the league must proceed against the commerce and communications of the violating state in a manner which would render them no longer neutral in the sense understood by international law.

Affirmations of International Law. Other traditional principles of international law are affirmed by the covenant. Independence, recognized as a right of states under international law,[40] is defined by Lawrence[41] as "the right of a state to manage all its affairs whether external or internal, without control from other states." "Existing political independence" is guaranteed against external aggression by article X, and more specifically independence is protected in its internal aspect by the clause excluding domestic questions from the competence of the league (art. XV, par. 8); and in its external aspect by the general character of the league which confines the authority of league organs to advice or recommendations,[42] by the requirement of unanimity at meetings of the assembly and council (art. V, par. 1), by the provision that

[38] Standards of neutral duty were really first established by the practice of the United States after 1793; see Hall, op. cit., sec. 213, p. 632.

[39] Bolton King, *Mazzini*, p. 305, quoted in Beer, *The English Speaking Peoples*, N. Y., 1917, p. 134.

[40] Wilson and Tucker, op. cit., p. 81.

[41] *Principles of International Law*, 4th ed., 1910, sec. 58, p. 119. For specific rights included by the term "independence," especially right of regulating immigration, see Fong Yue Ting v. U. S., 149 U. S. 698 (1893), Hershey, *Essentials of International Public Law*, 1912, p. 147; Bonfils, op. cit., sec. 441, p. 273.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

amendments to the covenant shall not bind dissenting members (art. XXVI) and by the permission to withdraw on two years' notice if international obligations are fulfilled (art. I, par. 3).

The accepted principle, that in case of conflict in treaties between different parties the earlier prevails,[43] is recognized in the provision forbidding later treaties conflicting with the covenant (art. XX, par. 1), but recognizing the validity of earlier ones unless abrogated by consent of the parties (art. XV, par. 2; XXI).

The extension of diplomatic immunities to representatives of members of the league and officials when engaged in league business and of inviolability to buildings occupied by the league and its officials and representatives attending its meetings (art. VII, par. 4, 5) is in accord with international law, and these provisions will rely on international law for interpretation, though it is not clear that such immunity would have extended in the absence of express stipulation.[44] It was thought necessary expressly to state similar immunities in the Hague Convention for pacific settlement of international disputes.[45]

It will be observed that the more important modifications in international law, elimination of the right of conquest, limitation of the right to make war and of the right to remain neutral, are not sudden departures from tradition, but are rather the culmination of historical processes or the rising to the surface of undercurrents of principle, always present but long obscured by excessive emphasis upon other principles. For those who believe that violent breaks with the past are not apt to be permanent, this consideration should be reassuring.

The extension given to the right of intervention is supported by precedent and authority, and for states who intend to observe

[42] Lowell, *The Covenanter*, N. Y., 1919, Letter No. 2.

[43] Wilson and Tucker, op. cit., p. 216.

[44] It was questioned in the senate whether delegates to the proposed Panama Congress of 1826, were "diplomatic officers." See Benton's *Abridgement of the Debates of Congress*, Vol. 8, p. 463; Elliot's *Debates on the Federal Constitution*, 2nd ed., 1836, Vol. 4, p. 480; Corwin, *The President's Control of Foreign Relations*, Princeton, 1916, p. 56.

[45] I Hague 1907, art. 46.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the law is not a derogation from independence, which in all essentials is unimpaired. Precedent and authority, likewise, justify the limitation recognized in the theory of equality, a limitation which may give reality to the conception, necessary to international or any other system of law, of equality before the law.

However, though there is no violent break with the past, the importance of the modifications in the theoretical foundations of international law should not be underestimated. "There is no king," said Bracton, "where the will and not the law has dominion."[46] In accord with this father of the common law, the covenant recognizes that states cannot survive where sovereignty can override the law. As the price of existence, states must accept definite responsibilities for the maintenance of law. Should this conception, about to be formally accepted, become instinctive in our civilization, the time might come when the chapters on war and neutrality, which overburden textbooks on the law of nations, could be relegated to historical appendices.

EFFECT UPON THE FOREIGN POLICY OF THE UNITED STATES

The senate has been more concerned with the effect of the covenant upon American foreign policy than with its effect on international law. Such traditional policies as political isolation, non-intervention, recognition of *de facto* governments, the Monroe Doctrine, arbitration of disputes, limitation of armaments and the open door in the Far East have been discussed, especially by protagonists of reservations or amendments to the covenant.

Political Isolation. The policy associated with Washington's advice "to steer clear of permanent alliances," and Jefferson's warning against "entangling alliances" is incompatible with the covenant. By articles X, XVI and XVII, the United States undertakes to coöperate with Europe and Asia in exterminating war for conquest and war without preliminary attempts at pacific settlement. The covenant undoubtedly imposes a several as

[46] Bracton, *De Legibus et Consuetudinibus Angliae* (written, 1250–56), Twiss, ed., London, 1878, ch. VIII, sec. 5, Vol. 1, p. 39.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

well as joint responsibility, but except for the requirement that commercial and financial intercourse be cut off from a covenant breaking state, the character of action to be taken is left to the discretion of each state. The council of the league, with unanimous vote, shall "advise" (art. X) or "recommend" (art. XVI), but the United States, so far as its own action is concerned, would decide.

It has been proposed that the policy of political isolation be protected by reservations emphasizing the above interpretation of the covenant and making absolute the right to withdraw, now limited by the requirement that international obligations under the covenant shall have been fulfilled (art. I, par. 3). The first adds nothing to the covenant and would doubtless be acceptable. The second would be an amendment.

However, it is idle to suppose that these or other reservations could resurrect a policy of political isolation. Three thousand miles of water is not what it was in 1796. The contrast of Europe and America is no longer that of monarchy and republicanism. The tradition had become a fiction before the Congress of Versailles.

As to other American states, isolation was never a policy. As to Eastern Asia, American isolation was an obvious fiction after the acquisitions following Dewey's victory at Manila Bay, if it had not been such since Perry opened Japan in 1854. Acquisition of Hawaii, partition of Samoa, intervention in the Boxer uprising, assertion of the "open door" in China, and ex-President Roosevelt's successful insistence upon mediation to end the Russo-Japanese war, show how far recent American policy is one of isolation from Far Eastern interests.

As to Europe, the fact that America in each case made reservations in favor of her "traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign state" should not be permitted to obscure the fact that she took a prominent part in the Hague Conferences of 1899 and 1907 and the Algeciras Conference of 1906.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The War of 1812 is evidence that a century ago the policy of isolation could not stand a serious strain. Certainly entry into the next war involving Europe generally has emphasized the deduction and has given the *coup de grace* to a policy of political isolation. As to this policy the covenant proclaims not its death, but long life to its successor.

Nonintervention in domestic affairs, as an American policy, should be distinguished from the policy of political isolation already referred to. Concern in the controversies between European states and political connection with those states, in spite of Washington's warning, has become the practice of the United States. On the other hand, refusal to "interfere in the internal concerns" of European powers, asserted in the Monroe Doctrine, together with its correlative, noninterference of other states in domestic affairs of the United States, has continued to be an American policy. Unofficial expression of sympathy for struggling nationalities in Europe and protests in behalf of persecuted sects has been the limit of American interference.[47] Protest or intervention in defense of international law falls, of course, in a different category.

Apprehension has been expressed lest interference by America in foreign domestic affairs might be required under articles X, XI, XVI and XVII of the covenant, and interference by other states in American domestic affairs might be permitted under articles VIII, XV, XXII and XXIII.

Article X relates only to cases of "external aggression;" and "war or threats of war" declared by article XI, "a matter of concern to the whole league," is not a domestic question. The circumstances "threatening to disturb either the peace or the good understanding between nations upon which peace depends," which under article XI may be brought to the attention of the league by any member, are in terms limited to those "affecting international relations." The measures required or authorized under article XVI, being confined to cases of breach of the covenant itself, are clearly of international concern. Although

[47] Moore's *Digest*, Vol. 6, pp. 32–33, 347–367.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

article XVII permits similar action where states not members of the league are involved, here also an external use of force by the state acted against would have occurred, thus the question would not be strictly domestic.

But though intervention in domestic affairs of foreign states is in no case sanctioned, even greater precautions have been taken to assure the domestic autonomy of members of the league, not only against foreign states, but against the league itself. "Existing political independence," guaranteed against "external aggression" by the covenant has been held by text writers[48] and the courts[49] to embrace autonomy in the control of tariffs, immigration, form of government, etc. States now fully independent and exercising these powers are guaranteed them in the future. by article X. Even more specific is the exclusion from international controversy, by article XV, of "matters which by international law are solely within the domestic jurisdiction" of a state.

The real concern, however, has been lest the league itself become a second Holy Alliance, arrogating to itself jurisdiction in the domestic affairs of its members. This is a matter dependent upon the good faith of the league. Superior power can abuse the law, and if the league is to be of value its united force must be superior to that of any member. Certainly intervention in domestic affairs is as well guarded against as the power of language can make it, without impairing the capacity of the league to accomplish its purpose.

In the matters of reducing armaments (art. VIII), apportioning mandates (art. XXII), regulating labor, commerce, drug traffic, etc. (art. XXIII), the league organs are restricted to advisory powers until a plan has been agreed to by each party concerned. In the settlement of international controversies there is more difficulty, for it might be alleged that the mere fact of a

[48] Hershey, *Essentials of International Public Law*, 1912, p. 147; Wilson, *Handbook of International Law*, St. Paul, 1910, p. 56; Bonfils, *Manuel de droit international public*, 6th ed., Paris, 1912, sec. 441, p. 273; Bluntschli, *Le droit international codifie*, Paris, 1870, secs. 381, 382.

[49] Fong Yue Ting v. U. S., 149 U. S. 698 (1893); The Schooner Exchange v. McFaddon, 7 Cranch 116 (1812), Scott, *Cases*, pp. 208, 209.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

foreign state raising a question shows that it is not solely domestic. This point of view was accepted by the United States in negotiating the Bryan treaties (1913–1914) which bar no controversies from consideration by the commissions there provided. Under these treaties, which continue under article XXI of the covenant, though after five years they may be denounced with a year's notice, the United States could maintain no claim to withdraw a question on the ground that it is domestic. For states with which the Bryan treaties were not concluded, notably Germany, Austria and Japan, a domestic question could be withdrawn from the consideration of any league organ, if the council, judging according to international law, finds by unanimous vote that it is of that character (art. XV, par. 8).

It has been urged that the United States reserve the power to decide for itself whether the question is domestic. Such a reservation would amount to an amendment of a radical character, since it would put it in the power of each state to declare every question domestic, and hence to defeat the purpose of the league. Vattel lays it down as a general principle of treaty interpretation "that neither of the parties who have an interest in the contract may interpret it after his own mind; for if you have the right to give to my promise what meaning you please you will be able to regulate my obligations at will, contrary to the intention and beyond the scope of my actual agreement; and, conversely, if I am to be allowed to explain my promises after my own pleasure I shall have it in my power to render them meaningless and of no effect by giving them a meaning quite different from that they had for you when you accepted them."[50] What matters are, under article XV, "solely within the domestic jurisdiction" of a state is a question of treaty interpretation, ascertainable by reference to international law. As a justiciable question it would perhaps more properly be decided by an arbitration tribunal or an international court than by a political body such as the council,

[50] Vattel, *Le Droit des Gens*, II, c. 17, sec. 265. "Nemo debet esse judex in sua propria causa" is so fundamental a principle of the common law that Coke and others have thought a conflicting act of Parliament would be void. Dr. Bonham's case, 8 Rep. 118 a; Thayer, *Cases on Constitutional Law*, I, 48-51.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

but clearly the matter should be decided by some body of international jurisdiction. Mr. Taft[51] and Mr. Root[52] supported this position when they contended (against a majority of the senate) that the ascertainment of what is a justiciable question in the meaning of the proposed arbitration treaties of 1911 was properly a subject for decision by the international commission to be appointed under those treaties, rather than by the treaty-making power of the contracting parties.

Recognition of de facto Governments. "To consider the government *de facto*, as the legitimate government for us" seemed a sound policy for Monroe. It was a deduction from the policy of nonintervention in domestic affairs and was put into practice by recognition of the former Spanish colonies at that time. A different attitude would have shown scant respect for the men of '76. Support of "legitimacy" could only be interpreted as meaning that they should have "hung separately." After they and their descendants had "hung together" for over a century and a quarter, some observers noted a departure from tradition in President Wilson's hope that "All this hemisphere is devoted to the same sacred purpose, and that nowhere can any government endure which is stained by blood or supported by anything but the consent of the governed,"[53] especially when the pronouncement was followed by refusal to recognize, because of the irregularity of their institution, the governments of Huerta in Mexico and Tinoco in Costa Rica, and by the proposal that American states agree to prevent assistance, either by military expeditions or by munitions of war, to revolutionaries in neighboring states.[54]

It should be observed, however, that reference in these cases was to violent changes in governments which might have been altered by constitutional processes, not to the formation of new states or governments, where recourse to peaceful means is wanting. As for the latter, the old policy was very promptly ob-

[51] *Our Chief Magistrate and his Powers*, N. Y., 1916, p. 106-108.

[52] 62nd Cong., 1st Sess,, Senate Doc. No. 98, p. 9.

[53] *American Year Book*, 1913, p. 93.

[54] Address, Second Pan-American Scientific Congress, Jan. 6, 1916, Myers, "The New Pan-Americanism," World Peace Foundation, Pamphlet Series, Vol. VI, No. 2, p. 108.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

served in the case of Panama in 1903 and of Czechoslovakia and Poland in 1918. Nothing in the covenant affects this policy. The assumption that article X would prevent recognition by the United States of a *de facto* government can get no support from the text of the article or from the interpretation officially given to similar guaranties in the past.[55]

The Monroe Doctrine has been referred to "as practically the only policy which we have evolved—our one tradition" and as the norm of conduct for foreign affairs.[56] Such comments show the indefiniteness of the doctrine. Examining its original statement it appears to be an assertion and vague guaranty of the immunity of American territory from European aggression and of independent American states from European oppression. This was the sense in which President Wilson understood it when in his address of January 22, 1917, he proposed that the nations "adopt the doctrine of President Monroe as the doctrine of the World." In this sense he embodied it in his fourteenth point of January 8, 1918, and in this sense the doctrine is incorporated in article X of the covenant. President Lowell has pointed out "if your object is to preserve the fruits inside the fence you do not fail to preserve them by making the fence cover two orchards instead of one."[57] In this respect the doctrine is only extended and rendered more secure by the covenant.

Later interpretations have conceived the doctrine as a policy, whereby the United States might influence the foreign policy of American states, and in "flagrant cases of wrongdoing or impotence . . . . exercise an international police power" over them.[58] This policy has been manifested by refusal to permit such states to sell or lease portions of their territory to non-American states,[59] by exclusion of foreign interests in the

[55] Secretary Hay to Mr. Reyes, Jan. 5, 1904, Diplomatic History of the Panama Canal, 63rd Cong., 2nd Sess., Senate Doc. No. 474, p. 503.

[56] J. A. R. Marriott, "The Foreign Policy of the United States," *The Living Age*, Vol. 302, p. 328 (Aug. 9, 1919).

[57] *League of Nations Magazine*, Vol. II, No. 2 (April, 1919).

[58] President Roosevelt, Annual Message, Dec. 6, 1904, Moore's *Digest*, Vol. 6, p. 596.

[59] Yucatan, 1845, Magdalena Bay, 1912.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

construction and operation of the Panama Canal,[60] and in the administration of the finances of states in a condition of bankruptcy.[61] This activity has been confined to the territory in the region of the Caribbean, and somewhat resembles that in the familiar "spheres of interest" of European states.

In exempting "regional understandings like the Monroe Doctrine" from the scope of the league it was hoped to protect this aspect of the doctrine, but the article does not make it clear who decides whether any particular controversy is within the purview of such an understanding. As with domestic questions this would seem a question of treaty interpretation proper for decision by an organ of the league, and such is Lord Robert Cecil's view.[62] There have been sufficient precedents and opinions on the Monroe Doctrine in the past century to make such a question susceptible of judicial decision, though doubtless because of the probability of unprecedented circumstances arising it would be desirable to leave decision to a political body in which the United States has a voice, such as the council. As in the case of domestic questions, insistence by the United States on its power to interpret this phrase might, if adhered to by all states having "regional understandings," render the covenant nugatory.

Arbitration of Disputes. "The adjustment of difficulties by judicial methods rather than force of arms," said President McKinley in referring the proposed arbitration treaty with Great Britain of 1897 to the senate, "has been recognized as the leading feature of our foreign policy throughout our entire history."[63]

The covenant does not make arbitration compulsory in any case, since it leaves it to the parties to decide whether a dispute is "suitable for submission to arbitration" (art. XIII). In this respect it falls short of the plan unsuccessfully promoted by the United States in the Hague Conferences, to define classes of con-

[60] Foster, *A Century of American Diplomacy*, N. Y., 1901, p. 161 et seq.

[61] St. Domingo, 1905, Hayti, 1916, Nicaragua, 1916.

[62] *The Covenanter*, N. Y., 1919, p. 159.

[63] Inaugural Address, March 4, 1897, Richardson, *Messages and Papers of the Presidents*, Vol. 10, p. 17. See also, *A League of Nations*, Vol. I, No. 1 (Oct., 1919), pp. 9–42.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

troversies in which arbitration would be compulsory, and in the Taft treaties of 1911, not ratified because of senate amendments, which named such classes and left their interpretation to a joint commission. The covenant does, however, go as far as the arbitration treaties actually concluded by the United States, which, while defining cases in which arbitration shall be obligatory, leaves it open for either litigant to withdraw such cases on the allegation that they affect its vital interests, independence, honor, or the interests of third parties.[64]

It may be questioned whether compulsory submission of controversies must not await the establishment of a true international court with jurisdiction fully defined by law. Arbitration implies appointment of the arbitrators by agreement of the parties and hence a voluntary acceptance of their jurisdiction.[65]

In defining four classes of cases suitable for arbitration and providing for enforcement of awards (art. XIII), every facility is given for the further development of arbitration. Existing arbitration treaties are unaffected according to the terms of article XXI.

The provisions requiring the submission of nonjusticiable questions to the council or assembly (art. XV), in effect embody the Bryan peace scheme, accepted in twenty bilateral treaties. Though the latter authorized no recommendations of binding character, they did forbid war until the report was made, which must be within a year. The covenant adds the requirement that a recommendation if unanimous in the council or a majority in the assembly, provided all members represented on the council are favorable, and excluding in both cases representatives of the parties in dispute, becomes obligatory. Such a decision would be rare, consequently a delay of three months after the recommendation is made, six months being allowed to make it, is the practical requirement. The covenant also recedes from the Bryan treaties in excluding matters of "domestic jurisdiction"

[64] See treaty with Great Britain, 1908, art. 1, Malloy, *Treaties*, etc., p. 814.

[65] I Hague Convention 1907, art. 37. See also Roosevelt, instructions to delegates to Second Pan-American Conference, Oct. 8, 1901, 57th Cong., 1st Sess., Senate Doc. No. 330, p. 34.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and "regional understandings like the Monroe Doctrine" from consideration, while the latter include "all disputes between them, of every nature whatsoever, which diplomacy shall fail to adjust."

The methods of pacific settlement employed and advocated by the United States are adopted by the covenant, their application being sanctioned by combined force. In this respect the covenant is a consummation of American policy.

Limitation of Armaments. Though Washington urged preparation for war in time of peace, Jefferson, looking forward to a time "when armies and navies should be reduced to the work of police"[66] began his administration by recommending a "chaste reformation" in the army.[67] This desire for limitation of armaments was carried into the international field after the second war with Great Britain by the Rush-Bagot agreement of 1817, ratified by the senate and still in force, which practically eliminates armaments on the Great Lakes. The Clayton-Bulwer treaty of 1850 prohibited fortifications on the proposed interoceanic canal, though this provision was not repeated in the Hay-Pauncefote treaty under which the Panama Canal was actually built.

In practice, except in emergencies, the military establishment of the United States has been meager. The American delegates to the first Hague Conference were instructed not to discuss the Tsar's proposal for limitation of armaments because the naval and military forces were "so far below the normal quota." In the second Hague Conference, however, in spite of pointed refusal of certain powers to discuss the subject, "The government of the United States felt it to be its duty to reserve for itself the liberty to propose . . . . as one of the subjects of consideration, the reduction or limitation of armaments, in the hope that if nothing further can be accomplished, some slight advance may be made toward the realization of the lofty conception which

[66] Henry Adams, *History of the United States of America during the First Administration of Thomas Jefferson*, N. Y., 1889, Vol. I, p. 146.

[67] 1st annual message, Dec. 8, 1801, Richardson, op. cit., Vol. I, p. 329. Adams, op. cit., Vol. I, pp. 238, 242.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

animated the Emperor of Russia in calling the First Conference." In the same spirit, the naval appropriation act of 1916[68] provided for discontinuance of the construction authorized, if an adequate tribunal for pacific settlement of disputes should render maintenance of competitive armaments unnecessary, declaring that the United States "looked with apprehension and disfavor upon a general increase of international armaments throughout the world" though realizing that general international agreement was the only means of amelioration.

This policy is recognized in article VIII of the covenant which authorizes the council to prepare plans for a general reduction of armaments, subject to revision every ten years, and effective for each state only when accepted by it.

The Open Door in China. The early interest of American traders in the Far East was stimulated by the opening of Japan through the efforts of Admiral Perry in 1854. A more definite political interest, however, was manifested, soon after the acquisition of the Philippines, in the exchange of notes in 1900 by Secretary Hay with France, Germany, Great Britain, Italy, Japan and Russia, in which freedom of access and equality of tariffs in leased territory and spheres of interest in China were recognized.[69] This "open door" policy was given added sanction by the Root-Takahira exchange of notes in 1908,[70] in which Japan and the United States stated their policy to be unaggressive and directed to "the maintenance of the existing status quo," and to the support "by all pacific means at their disposal of the independence and integrity of China and the principle of equal opportunity for commerce and industry of all nations in that Empire." These principles were reaffirmed in the Lansing-Ishii exchange of notes in 1917,[71] but with the significant addition that the two governments recognize "that territorial propinquity creates special relations between countries, and, consequently, the Government of the United States recognizes that Japan has

[68] Act Aug. 29, 1916, 39 Stat. 618.
[69] Malloy, *Treaties*, p. 244 et seq.
[70] *Ibid.*, p. 1046.
[71] *American Year Book*, 1917, p. 61.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

special interests in China, particularly in the part to which her possessions are contiguous." Other nations have similarly recognized the special position of Japan in reference to China. Doubtless this constitutes a "regional understanding," actions within which are excluded from the purview of the league under article XXI.

So far as the nature of this regional understanding can be gathered from published documents, it does not authorize action by Japan which would impair the "open door policy;" on the contrary Japan has repeatedly asserted her adherence to that policy. The succession of Japan to the German lease of Kiao-Chau and of economic privileges in the province of Shantung theoretically should not impair the open door policy, even aside from her pledges of restoration to China, inasmuch as Japanese approval of the open door would apply to those concessions as well as her earlier concessions. Practically Japan is rapidly acquiring a position under which maintenance of the open door will be at her discretion.

Of the policies discussed, that of isolation from foreign politics is ended, nonintervention in domestic affairs is guaranteed, recognition of *de facto* governments is unaffected, the Monroe Doctrine is extended and recognized, arbitration is sanctioned, means for limiting armaments are provided and the open door is unaffected in principle. For the United States there will be less opportunity for complacent reliance upon a fortunate geographic position, more responsibility for the general maintenance of law. By this, adhesion to Washington's idea of the basic policy of the United States should be rendered less difficult. "Observe good faith and justice toward all nations. Cultivate peace and harmony with all."

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

SUFFRAGE PROVISIONS IN STATE CONSTITUTIONS

KIRK H. PORTER

University of Iowa

Within recent years there has been a tendency to give more careful attention to the technique of legislation. In the past proposed laws have often been prepared by legislators who knew what they wanted, but were not able to express their wishes in scientifically constructed form. It is desirable of course that representatives of the people should determine legislative policy; and yet it is not counter to any intelligent principle of democracy that the drafting of bills should be done by experts who can put in brief though adequate phrases the essence of what the technically unskilled representative may want. It should be their task to use political machinery intelligently, and to warn the overzealous advocate against using it in a vain attempt to achieve an end which mayhap cannot be secured through political machinery at all. It is right that the people, through democratic channels of popular assemblies, should determine what they want; but it is no less proper that use should be made of those with special training to formulate ways and means.

Some states have already established legislative reference bureaus which do the work of bill drafting. The individual legislator goes to the bureau with a general outline of a law he has in mind. The bureau renders expert advice on the subject matter of the bill, if such advice is wanted, and proceeds to draft a measure embracing the subject in hand. The staff connected with the bureau should be prepared to offer advice as to the constitutionality of the proposed law, to cite precedents in other states if such can be found, and to express an opinion as to the probable attitude of the courts when interpreting it. Information should be at hand regarding the experience of other states, or indeed other countries, with similar legislation. A knowledge

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of this experience enables such a staff to render advice as to the wisdom of passing a proposed law, as well as to its constitutionality. Frequently laws that may be desirable in most respects cannot be enforced. At other times the expert is able to suggest a particular means of enforcing a proposed law or other administrative features which would not ordinarily occur to the legislator. This is a hint of the functions performed by such bureaus. There is a certain amount of prejudice against them, the sentiment prevailing that the individual legislator ought not to relinquish his prerogative of bill drafting to anybody. But this attitude is merely part of a general attitude of opposition to using new machinery in the practice of democratic government.

Whatever may be said in favor of scientific bill drafting, may be said with double force in favor of scientific constitution making. A constituent assembly of representative men should determine the content of a constitution, but such an assembly ought to make use of the skill and knowledge of trained men in the construction of their policies into fundamental law.

An extended examination of all the constitutional suffrage provisions that have been in force in the United States has induced the writer to believe that there is not one in existence today but leaves something to be desired.[1] They include too much or not enough; they aim to achieve ends which cannot be achieved through constitutional provisions; the wording has been confused and contradictory. They are not in harmony with any consistent political theory; and though comparatively short these suffrage articles reveal an astonishing degree of careless workmanship and thoughtlessness on the part of those who wrote them. While this clumsy drafting has seldom resulted in serious harm, it has caused confusion and litigation, and it is hoped that a study of the weaknesses of these suffrage provisions may give some assistance to those who would write a good constitution.

The subject of suffrage is usually dealt with in a separate and distinct article of the constitution, and it ought to be. It cannot logically be linked with any other matters that belong in

[1] K. H. Porter, *A History of Suffrage in the United States.*

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a constitution. A review of state constitutions indicates that the suffrage article deals with several distinct topics. For the sake of easy discussion they are here classified. The average, characteristic suffrage article deals with:

1. The method of voting. It guarantees a secret ballot, and names the sort of elections for which provision is being made, stating whether it be for all elections, merely state elections, or all except some specially mentioned.
2. The general qualifications of age, sex, citizenship, and period of residence within state, county, and smaller unit.
3. Special conditions under which residence is not to be lost or gained, as in the case of persons employed in government service.
4. The guaranty of freedom from arrest and military duty on election day.
5. Exclusion of specified groups—soldiers, sailors, students, criminals, paupers, the insane, etc.
6. Special qualifications such as literacy tests, payment of poll taxes, etc.
7. Purity in elections and corrupt practices.
8. The registration of voters.

This list embraces practically all the subject matter that usually finds its way into a suffrage article, and the separate topics will be taken up in order.

As to the method of voting, the secret Australian ballot is firmly established in the United States, but it should be guaranteed in the suffrage article. In order to remove all occasion for controversy a very brief statement could be used to guarantee a secret ballot. Many constitutions impose upon legislatures the duty of enacting legislation to guarantee secrecy, but this is unnecessary. There is no way of forcing a legislature to carry out a constitutional mandate of this sort, and a brief guarantee of a secret ballot would prevent the operation of any nonsecret system of elections. In a great many constitutions the phrase "all elections shall be free and equal" is used. It is hard to tell what the phrase means and in any event it is useless.

As to the elections to which the law is to apply, some controversies have arisen which serve as a warning to be explicit. In

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

one state a phrase was used, which has evidently been copied by several other states, stating that the qualifications were to apply to all electors voting for "all officers elective by the people." This apparently harmless phrase has opened the door to trouble. The suffrage article guaranteed a secret ballot and applied to all electors when voting for "officers elective by the people." But voting on such a matter as a school tax did not constitute voting for "officers elective by the people." The voting in a certain school district was ordered to be *viva voce*, and the courts held that the proceeding was not repugnant to the constitution because the suffrage article did not embrace voting on such a matter as a school tax, but only applied to electors when voting for "officers elective by the people." The case shows the need of accuracy and a careful statement of what is really meant.

The method of voting is not the only problem in this connection. In some states it has been held that constitutional provisions for suffrage only apply in the election of officers created by the constitution. The legislature is then free to fix other qualifications for suffrage in other elections. Thus in Illinois women enjoy suffrage in the election of candidates for offices created by the legislature, although the constitution does not grant woman suffrage. For many years in various states women have enjoyed suffrage in school elections only, sometimes by legislative grant. In some states only taxpayers are permitted to vote on the question of local bond issues. In some places only property owners may vote on improvement projects affecting their property. Is it desirable that the legislature be permitted to fix special suffrage qualifications for such elections? At least the constitution should not leave the matter in doubt, as many of them do.

The usual discriminations would seem to be without foundation. It is impossible in this article to discuss the question of woman suffrage, or the special claims of the property owner or the taxpayer. But surely the modern tendency is to recognize that women are fit to exercise full suffrage rights or none at all; and the economists disposed of the taxpayer's special claim many years ago. The taxpayer does not necessarily support the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

government any more than does the nontaxpayer. All a person need do in order to help support the government, and society in general, is to do productive work. The taxpaying factor is quite irrelevant. Thus there would seem to be no reason why there should be varying qualifications for suffrage under any circumstances; and the sole, exclusive, general qualifications ought to be fixed in the constitution in such definite terms that the legislature could not modify them under any circumstances. Let it be made plain, then, that provision is being made for "all elections by the people."

Probably the two matters of secrecy and the elections provided for could safely be covered in one brief statement such as this: All elections by the people, not otherwise provided for in this constitution, shall be by secret ballot; and the qualifications of electors shall be as herein provided.

As to general qualifications of age, citizenship and the like, the chief problem is to secure clear, unconfused phraseology. One often finds long, very complex, extremely awkward and ambiguous statements which attempt to cover everything—age, citizenship, exclusion for crime, term of residence, extra qualifications, etc. Special phrases are used to include or exclude women or aliens, such as, "all citizens without distinction of sex, male as well as female," "all citizens born or naturalized according to the laws of the United States." If there is a desire to include aliens special phrases are necessary, but it is not likely that any new constitution will include them. The term "citizen" is quite sufficient to include women and naturalized persons as well, it is unnecessary to qualify it with the phrase "born or naturalized."

Warning should be given against using the phrase, "citizen of this state." Voters ought to be citizens of the United States, and residents in the state where they vote. Federal citizenship involves state citizenship and the latter qualification is meaningless. It is merely necessary to prescribe residence within the state. If women are not to be included the word "male" may be introduced before the word "citizen." There is no need of further words. Thus the matters of sex and citizenship can be dealt with in a very brief statement.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Another brief phrase will cover age, and no opposition to the age of twenty-one is likely to be evoked. It has very seldom been placed higher than that in the United States, although twenty-five is favored in Europe. Two rather unusual conditions have at times caused the voting age to be fixed at eighteen. In pioneer communities, where men were scarce and faced the responsibilities of life at an early age, eighteen was favored. Also at times there has been a demand for granting suffrage to minors who might be called upon to do military service. The former occasion is not likely to arise, and while at present the cause of minor soldiers may be urged, there is little to indicate that such an attitude will be permanent.[2] The low age limit has never prevailed for any length of time anywhere in the Union. These qualifications of age and citizenship can best be expressed in positive language, although negative language is frequently used. One finds, "No person who shall not have attained the age of twenty-one shall . . . . " etc.

Experience has shown that the period of residence can safely be fixed at one year in the state. Some states require only six months, others two years; but the great majority fix upon one year. In the past, six months in the county and thirty days in the election district have been periods of residence required by many state constitutions; but these requirements have not been altogether satisfactory. In the first place it is exceedingly difficult to verify any claim to residence other than the local residence. The shorter periods of local residence are based upon the assumption that one can become familiar with local conditions more quickly than with state politics. This is an assumption not always well founded to be sure, but it is hardly likely that public sentiment would countenance a long period of local residence.

A means of verifying claims to residence ought to be secured in a registration law. One danger is that a legislature might make registration a very onerous and needlessly burdensome duty.

[2] Since the war, the voting age for soldiers and sailors actually in service in Great Britain has been nineteen.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Yet even so the matter ought to be left to the legislature. This question is discussed below.

It has been pointed out that simply because a person moves from one state to another, there is no reason why he should be obliged to live in the second state one year before he is permitted to vote for President. The inconsistency can hardly be remedied in a satisfactory way under our federal system. Individual states might indeed recognize a period of residence in the United States as being sufficient for presidential suffrage; but the problem would be very seriously complicated by the "blanket ballot" and the custom of voting for federal, state and often local officers at the same time. Under such a scheme some men would be allowed to vote for presidential electors only, and others for the whole ticket. A conventional residence requirement is therefore suggested, although it is not entirely satisfactory.

The present tense is simplest and is not open to attack. Such a phrase as, ". . . every citizen who 'has resided,' " instead of 'who shall have resided' is to be preferred. The latter phraseology seems to be favored, but it leads to a clumsy piling up of words which serves no other purpose than to cause the writer to think he has a legal mind. This is one of the greatest evils of bill drafting. Direct, simple, unambiguous words should always be used. An unnecessary word is a dangerous word. Written law should be as simple, straightforward and as lucid as the rules of grammar will permit.

It would not be wise to try to put into one section of the suffrage article more than the matters of age, sex, citizenship and residence. But it should be guaranteed that voters vote in the district where they live. The wording must also make sure that the period of residence has occurred immediately preceding the election. The following is suggested: Every (male) citizen of the United States who has attained the age of twenty-one years, and who has been a resident of this state one year next preceding the election, and for the last six months a resident of the county, and for the last thirty days a resident of the election district in which he offers to vote, shall be a qualified elector.

As to freedom from arrest and military duty, the need for

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

such a section as will guarantee this is obvious. Arbitrary arrests for political purposes should be guarded against. The courts will prevent abuse of such immunity.[3] It seems necessary to make this section a little longer than its importance warrants. Exceedingly clumsy, awkward and inadequate phrases are often used. The following is suggested: Electors, during their attendance at elections, and in going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony or breach of the peace. No elector shall be required to do military duty on the days of election, except in time of war or public danger.

We come now to the matter of losing or acquiring residence. The chief purpose of a section dealing with this question is to protect persons employed on government business from losing their residence. It is a mere problem of phraseology. Government employees are to be prevented from gaining a residence in any district when the sole occasion of their presence in the district is government business. They should also be protected against losing their residence in their home districts. And most important of all, the clause should be so worded that government employees, as such, will not be entirely excluded as a class inadvertently.

It is usually thought necessary to exclude soldiers, sailors and marines; and often students are excluded. The reason in both cases is that these persons have no permanent interest in the community, and the circumstances of their residence are apt to suggest a unity of action which constitutes a potential menace to the community. Again, as in the case of government employees, care should be taken not to exclude persons who are residents *bona fide*. And if a person is at home on election day he should not be excluded from the franchise simply because he is a soldier or a student. Careless drafting has made such exclusion possible at times. Such a statement as this illustrates the point, ". . . no student at any seminary of learning in this state shall be permitted to vote. . . ." Such wording prevents a student from voting even though he may go to his home

[3] Hobbs v. Getchell, 8 Maine 187 (1832).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

on election day, or even if his home is in the college town. The real purpose is not accomplished and injustice is done. It is only necessary to forbid the acquiring of residence for the purpose of voting on the part of those living in the district simply because they are students attending an institution. An opportunity should be left for persons to present facts to establish residence independently of their presence in a district as students, or as government employees.[4] The three special cases may be taken care of in one section as follows:

For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence as a student at any institution of learning.

For the purpose of voting no soldier, sailor or marine in the army or navy of the United States shall be deemed to have gained a residence in consequence of having been stationed within this state.

Another section may deal with the exclusion of paupers, criminals and the insane if it is desired to exclude all such. Exclusion of paupers is accomplished most readily by excluding all who are inmates of public asylums. This avoids the necessity of trying to determine who are paupers. When the constitution says merely that no pauper shall be allowed to vote the door is opened to endless argument as to whether street beggars are paupers, whether all people receiving charity are paupers, and so forth. There is little need to exclude persons who are not housed in a public asylum; and then it is desirable chiefly because they might be exploited by public officials. The difficulties involved in trying to administer a law embracing those outside of institutions vastly outweigh the good results that could be expected. The same sentence could be used to exclude insane persons. Some courts have held that insane persons could not vote even if the constitution were silent.[5]

As to exclusion for crime there are three considerations to bear in mind: (a) What crimes are to involve disfranchisement? (b)

[4] People v. Blodgett, 13 Mich. 127 (1865); Matter of Garvey, 147 N. Y. 117 (1895).

[5] Sinks v. Reese, 2 Am. Rep. 397 (1869); Clark v. Robinson, 88 Ill. 498 (1878).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Shall the criminal be excluded simply during the period of penal servitude or forever? (c) Shall the whole matter be fixed in the constitution or left to the legislature, conditionally or unconditionally? These are all matters of policy for a convention to decide, but the following comments are offered.

Constitutions vary greatly as to what crimes shall involve disfranchisement. Penitentiary offenses, infamous crimes, larceny, perjury, forgery and duelling, appear most frequently. Occasionally there is a very long list, and in the south wife-beating and rape are often mentioned. An enumeration of crimes seems to indicate that any crime not enumerated shall not involve disfranchisement, even though it might be more serious than some of the enumerated crimes. If perjury and forgery are penitentiary offenses, and the latter category is mentioned, there is no need to name perjury and forgery. It would seem that "penitentiary offenses" ought to be quite sufficient without further enumeration.

The period of disability is usually for life with the qualifying clause, "unless pardoned." A few states only provide that suffrage rights shall be restored immediately after release from prison. It happens that boys are convicted, serve their sentences and are released before they are twenty-one, and yet find themselves permanently disfranchised.[6]

As to leaving the question to the legislature there is no need for stating in the constitution, as has been done a great many times, that the legislature shall pass laws to exclude for certain specified crimes. If such a clause in the constitution operates independently of any action on the part of the legislature there is no object in referring to the legislature at all. If the clause does not operate automatically—that is, if action on the part of the legislature is necessary to give force to the clause of the constitution—there is no way to force the legislature to act, and the clause in the constitution is nothing but a wish, a mere piece of advice to the legislature.

On the other hand, if the matter is left to the legislature unconditionally in this manner, "the legislature may pass laws to

[6] Hamilton v. People, 57 Barb. 625 (1870).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

exclude for crime," and the legislature is left to name the crimes, the power might be abused, or policy altered from year to year. Unquestionably it is best to omit all reference to the legislature altogether. The matter should be fixed in the constitution, and if criminals are to be excluded at all some such generic phrase as "penitentiary offenses" or "infamous crimes" is sufficient.

On the whole it seems to be poor policy to exclude permanently for crime. It involves the implication that the penal system is a failure. The presumption should be that when a man comes out of the penitentiary he is once more fit to resume normal civic relationships. If he is not fit he ought not to be released; if he is fit he ought not to be deprived of the franchise. Obviously the presumption is not always true, men released from prison often do not make good citizens. But the prisoner is released upon the presumption that he has atoned for his crime and is to have a new start. No attempt is made to exclude him from the thousand and one other social and civic activities, and there is no adequate reason for excluding him from the suffrage. Otherwise disfranchisement has the character of a fixed penalty bearing no relation to the seriousness of the crime, and it follows the victim through life constantly reminding him of his unfortunate past and making it impossible for him to take full part in civic life once more.

So far as is known the illogical implications involved in permanent exclusion for crime have never been pointed out in just this way before. Debate in convention looking toward exemption of criminals has usually merely stimulated sympathy for the criminal. Sympathy has no place in the argument; in the light of modern penology it is simply unscientific lawmaking to exclude them.

Another decidedly more practical objection to permanent exclusion for crime is that it is often impossible to identify former criminals after their sentence has been executed. A man appears in Kansas and desires to vote. Ten years ago he may have served a prison term in Vermont. How are the Kansas officials to find it out?

It is suggested therefore that certain groups be excluded as

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

follows: No person who is insane, and no person while being maintained at public expense in any almshouse, hospital or asylum, and no person who is confined in any public prison shall be a qualified elector.

In the present century only two special qualifications enjoy any popularity. There is a decided tendency to apply literacy tests, and in some states all voters must have paid all taxes assessed against them, including poll taxes, before they may vote. Dismissing the theoretical objections to the literacy tests, which by the way have considerable weight,[7] there is scarcely even a practical justification for them in this country today. The public school system ought to take care of all native children; although unfortunately it does not in some parts of the country. But if there is enough illiteracy among the native citizens of any state, so that their participation in suffrage constitutes a menace, it is time that such state develop its public school system rather than exclude illiterates from suffrage. As to foreigners who become naturalized citizens, the federal naturalization law of 1906 requires all candidates to be able to read and write, so no additional danger can come from them. The only remaining use for a literacy test is to discriminate against negroes in the south[8] and that need not detain us here.

The fact is recognized that a substantial number of conservative political thinkers favor a literacy test of some kind; chiefly because public school systems are not well developed everywhere and are not likely to be soon, and also because many illiterate persons have already become naturalized or are beyond school age. Since some conventions may desire to guard against these illiterates it is suggested that a brief clause requiring all voters to be able to read the state constitution and write their own names should be sufficient. Of course any literacy test is open to abuse and vests broad discretionary power in the officials who administer it; but that can hardly be helped. Sometimes voters are required to fill out blank forms, applications for registration, etc., in their own handwriting; but that necessitates a provision

[7] Porter, *A History of Suffrage*, p. 230.
[8] *Ibid.*, pp. 185–189.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in the constitution for registration which is not desirable. On the whole, mere ability to read extracts from the constitution, and ability to write the name, will be found satisfactory.

Many states throughout the history of the country have persistently included in their suffrage provisions a clause requiring that taxes (especially poll taxes) must be paid before an elector may cast his vote. This, too, is illogical lawmaking. It implies that the government machinery is not adequate to collect taxes. There ought not to be any persons to whom such a disfranchising clause could apply; it is stultifying to imply that there would be any persons to whom it could apply. If people do not pay their taxes they should be made to do so whether they want to vote or not. There is no necessary connection between the two matters. Indeed such a clause even hints at the implication that if a man does not want to vote he need not pay his taxes. The operation of the clause predicates a breakdown of the tax machinery, and is a serious reflection on the administrative authorities. A man could not be disfranchised for neglecting to pay his taxes unless the public officials were aware of the neglect. And if public officials are aware of the neglect he should be made to pay at once. There is no good reason for exploiting the suffrage law to bolster up administrative machinery, and there is no place for such a clause in a scientifically drawn suffrage article.

Many states have clauses in their suffrage articles designed to insure purity in elections. Bribery, betting on elections, intimidation of voters, etc., are included in the list of crimes involving loss of suffrage. This is unnecessary. Purity of elections should be secured by means of legislation. Corrupt practices acts are being worked out, improved and perfected every year. Every state should be in a position to take advantage of new experience in corrupt practices legislation and this could not be done if the whole matter were tied up in the constitution. Corrupt practices acts do not involve any modification of the suffrage and hence can safely be left to the legislature. The courts can be relied upon to prevent the legislature from insidiously modifying suffrage rights through ostensible corrupt practices legisla-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tion. There is a wealth of precedent to show how jealous the courts are of any tampering with essential suffrage qualifications.[9]

Some constitutions state that the legislature shall, or may, pass laws to secure purity in elections. If the word "shall" is used the constitutional convention merely expresses a wish, for there is no possible way of forcing the legislature to pass the law and the clause might well remain a dead letter until the legislature saw fit to act. If the word "may" is used the clause takes on the character of a useless expression of advice. It grants no additional power to the legislature for there is no reason to suppose that the legislature could not pass such legislation without an express constitutional mandate. The need of a declaratory clause granting such permission would depend partly upon the rest of the constitution. Very seldom would it be necessary; but if it can be shown that the legislature might lack such power, because of certain constitutional limitations, then it would be the part of wisdom to grant the power in a clause using the word "may," not "shall."

The matter of registration suggests the same line of reasoning. Some constitutions include long clauses providing for the registration of voters. Such a matter has no place in a constitution. There is no need to burden the constitution with the details of registration. The legislature should be left to take care of such matters. The only possible danger would lie in the attempt of a legislature covertly to add to the qualifications for suffrage in a registration law. Thus some registration laws have virtually extended the period of residence fixed in the constitution. Others have covertly applied a literacy test by requiring persons to write out applications for registration in their own handwriting. Attempts have also been made to apply a taxpaying qualification by requiring a large registration fee. But the courts are on the alert for such attempts, and overwhelming authority discountenances any attempt to add one jot to the essential requirements fixed in the constitution, no matter how carefully concealed. The law reports are full of cases exposing this abuse

[9] Rison et al. v. Farr, 24 Ark. 161 (1865); State v. Williams, 5 Wis. 308 (1856).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of registration laws,[10] and there is no longer any need to fear that legislatures will modify suffrage requirements through ostensible registration laws.

Clauses in the constitution imposing the duty of enacting a registration law, or granting permission to do so, are open to the same criticism as similar clauses concerning purity in elections. Ordinarily the whole matter of registration should be left out altogether. In a few states where any registration requirement has been held to constitute an additional qualification, it may be necessary to provide definitely that the legislature has power to provide for registration.

This disposes of all the matters usually found in suffrage articles. The chief issue of suffrage policy has to do with the status of women, and that question must be settled by public opinion. A tentative suffrage article relieved of all encumbrances and embracing the ideas developed in this paper is given below.

ARTICLE—*Suffrage*

Sec. 1. All elections by the people, not otherwise provided for in this constitution, shall be by secret ballot; and the qualifications of electors shall be as herein provided.

Sec. 2. Every (male) citizen of the United States who has attained the age of twenty-one years, and who has been a resident of this state one year next preceding the election, and for the last six months a resident of the county, and for the last thirty days a resident of the election district in which he offers to vote, shall be a qualified elector.

Sec. 3. Electors, during their attendance at elections, and in going to and returning therefrom, shall be privileged from arrest in all cases except treason, felony or breach of the peace. No elector shall be required to do military duty on the days of election except in time of war or public danger.

Sec. 4. For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence, or lost it by

[10] Dagget v. Hudson, 43 Ohio 547 (1885); State v. Butts, 31 Kans. 537 (1884); Capen v. Foster et al., 12 Pick. 485 (1832); Edmunds v. Banbury et al., 28 Iowa 267 (1869); 25 N. E. 221.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

reason of his absence, on business of the state or of the United States.

For the purpose of voting no person shall be deemed to have gained a residence by reason of his presence as a student at any institution of learning.

For the purpose of voting no soldier, sailor or marine in the army or navy of the United States shall be deemed to have gained a residence in consequence of having been stationed within this state.

Sec. 5. No person who is insane, and no person while being maintained at public expense in any almshouse, hospital or asylum, and no person who is confined in any public prison shall be a qualified elector.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CONSTITUTIONALITY OF MERIT SYSTEM LEGISLATION

BEN A. ARNESON
Ohio Wesleyan University

Constitutional objections to many of the provisions of the civil service laws have been raised in several of the jurisdictions in which such legislation has been enacted. In addition to the national government there are today ten states which have provided for the application of the merit system to the appointment of all or a portion of the administrative officers and employees. These ten states with the dates of the adoption of the law are as follows: New York, 1883; Massachusetts, 1884; Wisconsin, 1905; New Jersey, 1908; Illinois, 1911; Colorado, 1912; Ohio, California and Connecticut, 1913; and Kansas, 1915. In Illinois and Colorado the employees in the state institutions had been under the merit system for several years prior to the adoption of the general civil service laws.

In four of these jurisdictions—California, Colorado, Connecticut and Kansas—there have been no cases involving the constitutionality of civil service legislation. In Colorado there have been at least two bitter controversies in the courts as to the interpretation of the law but in neither case did the parties who fought the law contend that it was unconstitutional. The question of the legality of the adoption of the Colorado law has also been before the courts; but the constitutionality of the provisions of the law has not been attacked. In New Jersey the only case of importance touching the matter of constitutionality is that of the Attorney-General v. McGuinness,[1] but here the decision dealt entirely with the constitutionality of one of the methods prescribed for extending the operation of the law to

[1] 78 N. J. L. 346 (1910).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

municipalities. It is principally in New York, Massachusetts, Wisconsin and Illinois that we find decisions involving alleged conflicts between the civil service law and the state constitution. A number of states which do not have general civil service laws have provided for the establishment of the merit system in municipalities; but in none of these have there been any cases of vital importance to this discussion. In two states, New York and Ohio, the merit system is made a part of the governmental system by constitutional provision.

The more important constitutional questions which have been raised in connection with civil service legislation are the following: (1) Authority of the legislature to establish the merit system; (2) class legislation; (3) delegation of legislative power to the civil service commission; (4) delegation of judicial power to the civil service commission; (5) nonpartisan membership of the commission; (6) interference with constitutional power of appointment; (7) interference with the freedom of speech through prohibition of political activity; (8) removals.

AUTHORITY TO ESTABLISH THE MERIT SYSTEM

The opponents of the merit system have from time to time questioned the authority of the legislature to enact civil service laws. They have maintained that to require qualifications for office not prescribed by the constitution is beyond the power of the lawmaking body. This position is clearly untenable, especially in relation to those officers not specifically established by the constitution. The right of the legislature to establish a merit system has been clearly upheld by the courts. The case of Barker v. the People,[2] decided as early as 1824, is cited as prohibiting "arbitrary exclusions" from office. The court in that case said that "the legislature cannot establish arbitrary exclusions from office or any general regulations requiring qualifications which the constitution has not required," but in the same decision a law excluding duellists from holding office was upheld. No court has ever held that civil service regulations constitute "arbitrary exclusions" from office.

[2] 3 Cowen (N. Y.) 686 (1824).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In Rogers v. Buffalo,[3] the New York court of appeals said: "Statutes looking to the purpose of ascertaining whether candidates for an appointive office are possessed of those qualifications which are necessary for a fit and intelligent discharge of the duties pertaining to such office are not dangerous in their nature, and in their execution they are not liable to abuse in any manner involving the liberties of the people." The Wisconsin supreme court in the case of State v. Frear,[4] after holding that the right to hold office is not guaranteed unless expressly so stated by the constitution or laws, said: "The state may require of persons seeking to enter its service such qualifications as the legislature may deem appropriate for the maintenance of good government. Nor is the legislative power so restricted in its exercise as to require uniformity in the qualifications for admission to the service. It rests with the legislature to impose such conditions as the nature of the various kinds of service demands and as may be required to remove existing or threatened evils incident thereto." In an Illinois case it was contended that civil service legislation abridges the privileges and immunities of citizens of the United States as guaranteed by the fourteenth amendment, on the ground that it interfered with rights of municipal officers to make certain appointments. The court overruled this contention by saying that such powers do not come within the meaning of the words "privileges and immunities of citizens of the United States."

Many of the state constitutions provide that no oath (other than oath of office), declaration or test shall be made a qualification for office holding. The civil service law of New York was attacked in Rogers v. Buffalo[5] on the ground that the tests required were in violation of the prohibition on tests for office found in the state constitution. The court held that the prohibition on tests referred only to such tests as would give members of any one religious sect advantages over other persons. This holding has been quoted and followed by the Illinois court in People v. Loeffler.[6]

[3] 123 N. Y. 173 (1890).
[4] 146 Wis. 291 (1911).
[5] 123 N. Y. 173 (1890).
[6] 175 Ill. 585 (1898).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CLASS LEGISLATION

Under this head might be discussed: (1) Those cases in which civil service legislation has been attacked on the general ground that it denies the equal protection of the law; (2) those in which it is contended that the exemption of veterans constitutes such a denial of law. In at least three states, cases have been before the courts where the denial of equal protection of the law in general has been made the basis of attack upon merit system legislation. In these states, Louisiana (involving municipal civil service), Ohio and Wisconsin, the civil service laws were upheld in this particular. The Wisconsin court in the case cited above said: "The privilege of holding public office is not in its nature a right of the class guaranteed by the constitution as the natural and inalienable rights of every citizen. It has never been treated as a natural right in our governmental system. It is regarded as a privilege which is extended to the citizens of the state upon such conditions and terms as the people in their sovereign capacity may determine."

The opponents of civil service reform have used the exemption of veterans as a welcome excuse for embarrassing not only the champions of the merit system in the legislature but the administrators of the law as well. In the legislature the enemies of the reform have sought to weaken the law by exempting veterans from its operation, and in this way have made the civil service reformers appear as unpatriotic and unfriendly to the veteran. At the present time Civil War veterans must be preferred in appointments after examination in New York, New Jersey, Massachusetts, Kansas and Illinois. In the last named state, Spanish War veterans and men who have served in the Boxer Rebellion and the Philippine Insurrection are included under this rule. In Ohio and Massachusetts unexamined veterans are placed on the list, and, at the option of the appointing officer, may be chosen.

These provisions, placed in the law by opponents of the merit system, have been made the basis of attacks upon the law. In Massachusetts the law formerly provided that unexamined veter-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ans must be preferred for appointment. This meant that any veteran might, by a mere formality, be placed on the list and that the appointing officer might be compelled to choose such veteran regardless of his qualifications. This provision was attacked on the ground that it violated article 6 of the Bill of Rights of the Massachusetts constitution which declares that "no man nor corporation nor association of men have any other title to obtain advantages, or particular and exclusive privileges distinct from those of the community than what arises from the consideration of services rendered to the public." The supreme court held in Brown v. Russell[7] that to compel the appointment of unexamined veterans was in violation of this article. New York provides in her constitution for veteran preference in these words: "Honorably discharged soldiers and sailors from the army and navy of the United States in the late Civil War, who are citizens and residents of this state, shall be entitled to preference in appointment and promotion, without regard to their standing on any list from which such appointment or promotion may be made."[8] In interpreting this clause the New York courts have held that veterans were to be preferred for appointment only after examination, and that an unexamined veteran had no claim upon appointment beyond that of other citizens.[9]

The same question has arisen in several states entirely apart from the administration of the merit system. The general view of the state courts has been that the legislature may constitutionally provide for preference of veterans for selection to office over other persons having the same qualifications. Such decisions are in accord with the Massachusetts and New York holdings. The federal provision for veteran preference has been interpreted by the attorney-general to apply to veterans having necessary qualifications. It is not certain, however, that the preference of unexamined veterans might not be upheld in some states under different constitutional provisions. No state has, at present, any provision, constitutional or statutory, compelling

[7] 166 Mass. 14 (1896).
[8] Art. V, Sec. 9.
[9] Matter of Keymer, 148 N. Y. 219 (1896).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the appointing officer to give preference to an unexamined veteran. In no case has the preference for examined veterans been declared unconstitutional.

DELEGATION OF LEGISLATIVE POWER

The contention that the civil service commission has been unconstitutionally delegated to perform legislative functions is based on the same conception of legislative power as are many other similar contentions relative to unconstitutional delegation of power to administrative boards and commissions. It has been maintained that when a board or commission is given power to make rules and regulations to carry out the general policy laid down by the legislature it is given power of such a nature that its exercise is in violation of the theory of the separation of the powers. In answer to the question whether the delegation of power to make rules and regulations is a legal delegation, the Massachusetts court said, in the opinion of the justices: "We think the legislature has the constitutional right to provide for the appointment of such commissions, and to delegate to them the power to make rules, not inconsistent with existing laws, to guide and control their discretion and the discretion of officers of the state or of cities in whom the appointing power is vested. This is not a delegation of power to enact laws; it is merely a delegation of administrative powers and duties."[10]

The Ohio courts have held in Green v. State Civil Service Commission[11] that the delegation of power to the commission is "the imposition of an administrative duty in order to give practical effect to the enactment." It was further contended in this case that the statute was invalid in that it gave the commission power to suspend the law in cases requiring scientific, educational and professional qualifications. The court answered this by saying: "This does not confer power upon the board to suspend the law, but the law itself defines certain circumstances and conditions which, when the administrative

[10] 138 Mass. 601 (1885).
[11] 90 Ohio St. 252 (1914).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

commission finds them to exist, shall constitute a situation in which the requirement of the statute may be omitted. The part of the board is simply to ascertain whether such a situation exists. When the fact is ascertained and properly authenticated by the board, the law authorizes the board to follow the procedure prescribed in the statute itself."

In answer to the claim that the commission is given arbitrary power to make exemptions, the Wisconsin court in State v. Frear, *supra*, made the following statement: "It is contended that the commission is granted arbitrary power to extend the exempt class. We do not so regard it. They must include only those offices in this class as to which they in fact find that competitive or non-competitive examinations are impracticable on account of the temporary duration of the employment or for other special reasons. The phrase 'for special reasons satisfactory to the commission' means that the commissioners are to investigate and when they find as a matter of fact that the merit and fitness of persons to perform the duty of such offices cannot be ascertained by an examination then they are to place such officers in the exempt class." In the same case it was clearly held that, not only in regard to exemptions, but in regard to the power to make rules and regulations there was no delegation of legislative power to the civil service commission. In no case in any court, federal or state, has a civil service law been held unconstitutional because of illegal delegation of legislative power.

DELEGATION OF JUDICIAL POWER

The investigatory power of the civil service commission would be greatly increased if it were given the power of subpoena and the power to punish for contempt. The granting of such power, however, is so obviously a violation of the theory of the separation of the powers that in no case has the legislature attempted to give such authority to the commission. It has been the uniform practice to make it the duty of the courts to issue subpoenas upon the request of the commission and to punish for contempt those who fail to obey the orders. This practice has been

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

attacked in at least one state as constituting an illegal delegation of judicial power. In the case of People v. Kipley,[12] the constitutionality of the civil service law was attacked on these grounds. The law was upheld by the court, which said: "The commission is not allowed to punish for contempt, but the circuit court, upon application of the commission, makes the order to produce the papers, and upon failure to obey the order inflicts the punishment as for a contempt. There is here no delegation of the judicial function to the commission, but simply a provision for the exercise of judicial function by the circuit court." This decision follows the holding of the United States Supreme Court in the case of the Interstate Commerce Commission v. Brimson,[13] in which it was held that a similar provision concerning the Interstate Commerce Commission was not in violation of the theory of the separation of the powers.

NONPARTISAN MEMBERSHIP OF THE COMMISSION

The provision in the civil service laws that not more than a specified number of the members of the commission shall belong to the same political party has not been attacked except in New York. It was there contended that such a provision violated Art. 1, sec. 1 of the state constitution which reads as follows: "No member of this state shall be disfranchised or deprived of any of the rights or privileges secured to any citizens thereof unless by the law of the land or judgment of his peers." It was maintained that in naming the third member of the commission any member of the political party of the other two was disqualified. In overruling this contention the court said: "In our judgment, legislation which creates a board of commissioners consisting of two or more persons and which provides that not more than a certain proportion of the whole number of commissioners shall be taken from one party, does not amount to any arbitrary exclusion from office nor to a general regulation requiring qualifications not mentioned in the constitution. . . . . Thus a regulation excluding all physicians would be arbitrary.

[12] 171 Ill. 44 (1898).
[13] 154 U. S. 447 (1893).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

But would a regulation which created a board of health and provided that not more than one physician from any particular school or none but a physician should be appointed thereon be arbitrary or unconstitutional as an illegal exclusion from office? I think not. No man's right to be regarded as eligible to hold office is, as we think, infringed upon by legislation which prohibits the taking of more than a certain number of the class to which he belongs, for the purpose of filling a commission composed of more than one individual."

INTERFERENCE WITH CONSTITUTIONAL POWER OF APPOINTMENT

The question of whether provisions for appointment by the merit system apply in cases where the power of appointment is vested in a given official by the constitution arose in New York in connection with the superintendent of public works. According to the New York constitution this official was given express power to appoint and remove his subordinates and it was contended that the civil service law of 1883 did not apply to his department. This contention was upheld by the courts of the state in People v. Angle,[14] and the decision is an excellent statement of the principle that the legislature cannot impose the merit system upon an appointing officer whose appointing power is expressly given him by the constitution. Since this decision was given, the merit system has been made applicable to all departments in New York by constitutional amendment and this case is now only of historical interest. Because it is the only case on record involving this particular point and because it would undoubtedly be followed by courts in other states should the legislature try to apply the merit system to positions where the power of appointment is expressly vested in the constitution, the following extract from the decision is here given:

"Any provision, therefore, which materially interferes with the freedom of selection conferred upon the superintendent, and the exercise of his judgment in investigating and determining the fitness and propriety of contemplated appointments seems to us

[14] 109 N. Y. 564 (1888).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

not only to conflict with the terms of the constitution but plainly to violate its spirit and intent.

"Under this law the superintendent is absolutely deprived of the exercise of any judgment, choice or discretion in the matter and is required in some cases to appoint the single individual whose name is presented to him by the commission (in case of a veteran), and in all other cases his choice is limited to a selection from among those persons whose names may or may not be all submitted to him by the same body. Under the constitution the superintendent is at liberty to select any person for appointment from among the million or more citizens eligible to such office, while under the statute he can, at best, only select from the three names furnished him by a tribunal over whom he has no control and the efficiency of whose tests he may entirely disapprove. Whether this mode of selecting officers is a wiser and better one than that provided by the constitution cannot affect the decision of this appeal, for the sole question here is whether, in its practical operation, the statutory scheme takes away a power otherwise bestowed by the organic law. It is also quite immaterial that the board authorized to present names for the superintendent's choice determines such choice by arbitrary rules which exclude the idea of any bias or personal preference on its part, for the question is whether the mode provided materially impairs or destroys the scheme provided by the constitution. If it does, then it is repugnant to the constitution and must be condemned, for the law imputes to the legislature an intention to effect those results which are the necessary and natural consequence of the execution of the laws enacted by it. It seems to us that the law leaves to the superintendent only the barren office of issuing a commission to a person whom others have selected for his adoption, whereas the constitution provides that he shall be the exclusive actor in determining the wisdom and propriety of the proposed appointment. It cannot reasonably be contended that the superintendent has under this system any such freedom of action and choice as is implied in the power to appoint his subordinates and perform the duties charged upon him by the constitution. Such power embraces

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

in its exercise not only perfect liberty of choice to the person to be appointed, but the duty of investigating personally the character and qualifications of the proposed appointee and determining his fitness to discharge the services required of him. This was a duty which the constitution required him personally to perform, and which he could not lawfully delegate to any other."

Another interesting case involving interference with the constitutional power of appointment arose in New York in connection with the right of municipal officers to make certain appointments. The constitution provides that the appointive officials in a municipality shall "be appointed by such authorities thereof as the legislature shall designate for that purpose."[15] It was held in People v. Mosher[16] that a provision of the civil service law which compelled the appointing officer to select the person highest on the list was unconstitutional. In other cases[17] the New York courts have upheld the provision for selection from the highest three on the eligible list. No case has arisen in New York attacking the selection from the three highest to positions where the appointment is not constitutionally vested.

The New York courts, then, have held all forms of civil service regulations void as relating to positions where the power of appointment is expressly vested in the constitution. In the municipal service where appointments are provided for in the constitution, although the power is not unqualifiedly vested in any specified official, compulsory selection of the highest name has been declared void, but selection from the three highest has been upheld. In two states, Colorado and Illinois, the person highest on the list must be appointed. The laws have never been attacked on this particular ground in either of these states. It is probable that the courts of all the states would uphold such a provision if applying only to positions where the power of appointment is not vested by the constitution.

[15] Art. X, Sec. 2.

[16] 163 N. Y. 32 (1900).

[17] Rogers v. Buffalo, 123 N. Y. 173 (1890), and People v. Gaffney, 126 N. Y. Supp. 1027 (1911).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In Wisconsin the right of the legislature to limit the appointing officer to the three highest has been upheld in the following words: "The opinion doubtless also prevailed in the legislature that a selection from three candidates from the certified list would provide a sufficient scope for the exercise of a reasonable discretion by the appointing officer in making appointments of persons found to be qualified to perform services under the appointing officer. . . . . We perceive no unreasonable restrictions in the nature of this legislation for the exercise of the discretion of the appointing officer to select an appointee found to possess the qualifications pursuant to the tests prescribed by the law."[18] The Wisconsin law, however, does not in any way interfere with the constitutional appointing power of any official.

It was contended in Illinois that constitutional officers had certain implied appointing power that could not be interfered with by civil service regulations. In overruling this contention the court, in People v. McCullough,[19] said: "It is the undoubted law that the legislature may pass any law and do any legislative act not prohibited by the constitution of the state or the United States. It is equally true that the power to appoint to office is not inherent in the executive department unless conferred by the constitution or the legislature, but the creation of officers, the delegation and regulation of the powers and duties of officers and the prescribing of the manner of their appointment or election are legislative functions which are restrained only by the constitution.

"The fact that such officers (the secretary of state, the treasurer and other executive officers including the governor) are created by the constitution does not confer unrestricted power upon them, and except as to such rights and powers as they derive from the various provisions of the constitution, they are entirely subject to the will of the legislature."

[18] State v. Frear, 146 Wis. 291 (1911).
[19] 254 Ill. 9 (1912).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

FREEDOM OF SPEECH AND PROHIBITION OF POLITICAL ACTIVITY

The civil service law itself or regulations made under it invariably prohibit political activity on the part of those who have received appointments under the merit system. In Massachusetts it was contended that a regulation governing a city police force which prohibited political activity on the part of its members was in violation of the constitutional right of free speech. In overruling this contention the court said: "The petitioner may have a right to talk politics but he has no constitutional right to be a policeman. There are few employments for hire in which the servant does not agree to suspend his constitutional right of free speech, as well as of idleness, by the implied terms of his contract. The servant cannot complain as he takes the employment on the terms which are offered him. On the same principle the state may impose any reasonable condition upon holding offices within its control."[20] The federal courts have upheld regulations of the United States Civil Service Commission prohibiting political assessments.

REMOVALS

The question of the constitutionality of the removal provisions of the civil service law has been raised in a few instances. In Wisconsin the law provides that violation of any of its provisions shall be punishable by removal from office in addition to fine and imprisonment. The Wisconsin court has held that such a removal is invalid as far as constitutional officers are concerned.[21] The right of the appointing officer to remove the appointee according to the law was not questioned. In Illinois, however, the contention was made in People v. Kipley[22] that the removal of officers and employees under the civil service law violated the right of trial by jury guaranteed by the state constitution. The court upheld the law saying: "The provisions of the civil service act for the removal or discharge of officers

[20] McAuliffe v. Mayor, 155 Mass. 216 (1892).
[21] State v. Frear, 146 Wis. 291 (1911).
[22] 171 Ill. 44 (1898).

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

or employees upon written charges are purely statutory provisions. The constitutional provision that 'the right of trial by jury shall remain inviolable' was not intended to introduce the right of trial into summary jurisdictions unknown to the common law and not providing for that mode of trial." In this case the court agreed with the courts of the majority of the states that an office is not property and that removal from office without trial is not taking property without due process.

SUMMARY

In no case has a civil service law been held unconstitutional. All decisions touching the subject point to the conclusion that the merit system can, without any constitutional amendments, be made a part of the administrative machinery of any state or municipality. It would be better, however, if the example of New York and Ohio, in establishing the merit system by constitutional provisions, were followed by the several states. With the merit system provided for in the constitution, the enactment of reactionary legislation to vitiate the existing law, as has been the case in Colorado and Connecticut, would be rendered difficult if not impossible.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

CONSTITUTIONAL LAW IN 1918-1919. I

THE CONSTITUTIONAL DECISIONS OF THE SUPREME COURT OF THE UNITED STATES IN THE OCTOBER TERM, 1918[1]

THOMAS REED POWELL

Columbia University

I. INTERSTATE COMMERCE

POWERS OF CONGRESS UNDER THE COMMERCE CLAUSE

United States v. Hill[2] by a vote of seven to two sustained the so-called Reed Amendment by which Congress prohibited the introduction of liquor into any state which forbade the sale or manufacture of liquor within its borders. West Virginia, though interdicting manufacture and sale, allowed any person to bring into the state for personal use a quart of liquor each month. Since Mr. Hill did only what West Virginia sanctioned, Mr Justice McReynolds for himself and Mr. Justice Clarke insisted that "the Reed Amendment in no proper sense regulates interstate commerce, but is a direct intermeddling with the state's internal affairs." He inquired rhetorically: "If Congress may deny liquor to those who live in a state simply because its manufacture is not permitted there, why may not this be done for any suggested reason, e.g. because the roads are bad or men are hanged for murder or coals are dug. Where is the limit?" For the majority Mr. Justice Day answered that the control of Congress over interstate commerce is not limited by state laws and that "the policy of Congress acting independently of the states may induce legislation without reference to the particular policy or law of any given state." Congress may exert its authority in view of the laws of the state or inde-

[1] For reviews of decisions in previous terms see *American Political Science Review* (1910) IV, 483–487; (1912) VI, 513–523; (1915) IX, 36–49; (1918) XII, 17–49, 427–457, 640–666; (1919) XIII, 47–77, 229–250.

[2] (1919) 248 U. S. 420, 39 Sup. Ct. 143. See R. E. Cushman, "The National Police Power under the Commerce Clause of the Constitution," 3 *Minnesota Law Review* 381, 409–411. See also 19 *Columbia Law Review* 79, 32 *Harvard Law Review* 733, 17 *Michigan Law Review* 511, and 28 *Yale Law Journal* 501.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

pendently of those laws. This hardly answers the dissenting query of Mr. Justice McReynolds. There must be some limit to the power of Congress to make its prohibitions of interstate commerce dependent upon legislation in the state of destination where the congressional prohibition is not in furtherance of that state legislation. The sound basis for the decision must be the reasonableness of the relation between the congressional prohibition and the state laws upon which it is made contingent.[3]

There was division of opinion also in United States v. Ferger[4] in which all the court but Mr. Justice Pitney thought it within the power of Congress to punish the counterfeiting and use of a fictitious interstate bill of lading, even though such bill related to no actual or contemplated commerce. The decision of the district court dismissing the indictment was said by the Chief Justice to assume mistakenly "that the power of Congress is to be necessarily tested by the intrinsic existence of commerce in the particular subject dealt with, instead of by the relation of that subject to commerce and its effect upon it." The power of Congress under the commerce clause and the necessary-and-proper clause must include authority to deal with obstructions to interstate commerce "and with a host of other acts which, because of their relation to and influence upon interstate commerce, come within the power of Congress to regulate, although they are not interstate commerce in and of themselves." The undoubted power to regulate genuine interstate bills of lading carries with it the power to prevent the fraudulent and spurious imitation and thus to guard against impairing or weakening the credit and confidence which sustains interstate commerce.

In three cases it was held that an injured employee was engaged in interstate commerce so as to come within the federal Employers' Liability Act. New York Central Railroad Co. v. Porter[5] involved a section man who was hit by a passing train while shoveling snow between platform and tracks used for both interstate and intrastate

[3] In interpreting the Reed Amendment the principal case declined to limit its scope to the introduction of liquor for commercial purposes. In United States v. Gudger, (1919) 249 U. S. 373, 39 Sup. Ct. 323, the statute was held not applicable to liquor in transit through a dry state to a wet one. See 28 *Yale Law Journal* 836. See also Danziger v. Cooley, (1919) 248 U. S. 310, 39 Sup. Ct. 119.

[4] (1919) 250 U. S. 199, 39 Sup. Ct. 445. The same point is affirmed in another case between the same parties decided the same day, 250 U. S. 207, 3 Sup. Ct. 447. See 32 *Harvard Law Review* 557.

[5] (1919) 249 U. S. 168, 39 Sup. Ct. 188. Mr. Justice Clarke dissents.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

commerce. Kinzell v. Chicago, M. & St. P. Ry. Co.[6] had to do with a workman who was keeping a track clear for interstate trains by removing from a trestle the earth which accumulated above the tracks in the process of substituting a solid embankment for the trestle. In Philadelphia, B. & W. R. Co. v. Smith,[7] the injured workman was a cook in a camp car run for the accommodation of a gang of bridge carpenters engaged in repairing bridges over which interstate trains were run. The carpenters were regarded as essential to the commerce over the bridge, and the cook was thought to be essential to the carpenters in the prosecution of their work and not a mere minister to their personal convenience.

In United Drug Co. v. Rectanus Co.,[8] Mr. Justice Pitney reiterated the well-established principle that the power of Congress to legislate on the subject of trade-marks is only such as arises from the authority conferred by the commerce clause and that registration of a trade-mark under the Act of Congress has no bearing on a controversy with respect to alleged infringement in exclusively local trade.

Though the controversy over the federal Meat Inspection Act which came before the court in Pittsburgh Melting Co. v. Totten[9] appeared to be confined to a question of interpretation, Mr. Justice Day declared, without citation of authority, that "the enactment of the statute was within the power of Congress in order to prevent interstate and foreign shipment of impure or adulterated meat-food products." The act "provides an elaborate system of inspection of animals before slaughter, and of carcasses after slaughter and of meat-food products" prepared for interstate or foreign commerce, requires that products condemned by the federal inspectors "shall be destroyed for food purposes," and forbids transportation in interstate or foreign commerce of products which have not been inspected and approved.[10]

[6] (1919) 250 U. S. 130, 39 Sup. Ct. 412.

[7] (1919) 250 U. S. 101, 39 Sup. Ct. 396.

[8] (1918) 248 U. S. 90, 39 Sup. Ct. 48. It is not clear that the principle asserted in this opinion was essential to the disposition of the controversy.

[9] (1918) 248 U. S. 1, 39 Sup. Ct. 3.

[10] In Carey v. South Dakota, (1919) 250 U. S. 118, 39 Sup. Ct. 403, an opportunity was presented to pass on the constitutionality of the federal Migratory Bird Act which has been disapproved by several of the lower federal courts, but the Supreme Court, by interpreting the provision that all birds of the designated kind which do not remain permanently within any one state are to be deemed within the custody of the United States as not precluding the operation of a state statute forbidding the shipment of dead birds, found it unnecessary

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

THE COMMERCE CLAUSE AND THE POWERS OF THE STATES

A. State Taxation and Interstate Commerce

Two cases presented applications of the familiar principle that the state may in the absence of pertinent legislation by Congress require the inspection of dangerous products which have not yet ceased to be articles of interstate commerce and may charge a reasonable fee therefor, but must not make the fee so high that the law partakes of the nature of a revenue measure and thus becomes an unconstitutional regulation of interstate commerce. In Pure Oil Co. v. Minnesota[11] the state was given a clean bill of health because it appeared that the

to consider whether Congress had exceeded its powers. The opinion of Mr. Justice Brandeis may be taken as a hint that the federal statute will be sustained to the extent that it forbids migratory birds to be destroyed or taken contrary to federal regulations, for one of the reasons adduced in support of thus limiting the scope of the statute is the familiar canon of construction that "where a statute is reasonably susceptible of two interpretations, by one of which it would be clearly constitutional and by the other of which its constitutionality would be doubtful, the former construction should be adopted."

In Sandberg v. McDonald, (1918) 248 U. S. 185, 39 Sup. Ct. 84 (see 28 *Yale Law Journal* 403), the Seamans Act was by a vote of five to four interpreted as not intending to include advancement to sailors in foreign ports in a provision forbidding the deduction of wages advanced from the sum due for past services. The minority, consisting of Justices McKenna, Holmes, Brandeis and Clarke, recognized that their construction of the statute made the question of the constitutionality of the statute "not only of ultimate but of first insistence," but it passed it by for the reason that it had not been duly certified by the Circuit Court of Appeals. The majority prefaced its examination of the question of interpretation by saying: "Conceding for the present purpose that Congress might have legislated to annul such contracts as a condition upon which foreign vessels might enter the ports of the United States . . . ." thus inviting the assumption that federal control of foreign commerce is sufficiently extensive to sanction the constitutionality of the statute as interpreted by the minority. The Sandberg Case involved a British ship. In Neilson v. Rhine Shipping Co., (1918) 248 U. S. 205, 39 Sup. Ct. 89 (see 28 *Yale Law Journal* 403), the act was held not to apply to extra-territorial payments by an American ship, the same four justices dissenting.

In Louisville & Jeffersonville Bridge Co. v. United States, (1919) 249 U. S. 534, 39 Sup. Ct. 355, the Safety Appliance Act was held to apply to a movement of twenty-six cars three quarters of a mile in a terminal yard. The bridge company contended that it was engaged in a mere switching of cars and not a "train movement" within the meaning of the act, but does not appear to have contested the constitutionality of the application of the statute successfully urged by the government.

[11] (1918) 248 U. S. 158, 39 Sup. Ct. 35.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

latest report showed that over seventy-five per cent of the receipts were used for departmental expenses and that in addition the general officers of the state had not a little to do with the enforcement of the statute. Weight was also given to the fact that the state had from time to time reduced the fees when experience had shown that they yielded more than the cost of inspection. In Standard Oil Co. v. Graves,[12] however, the state of California had made a net profit of about $250,000 during the decade when the law had been in force and the receipts for the last preceding year were nearly ten times the disbursements, and it was therefore held that the law was substantially a revenue measure and unconstitutional as a direct burden on interstate commerce.

A similar excess of pecuniary zeal was discovered by Union Pacific R. Co. v. Public Service Commission of Missouri[13] in Missouri's scale of fees for certificates from the public service commission authorizing the issue of bonds by railroads, where the bonds were secured by mortgage of property within the state. The fee was graduated according to the size of the issue, and by the provisions of the statute failure to pay the fee subjected the mortgagor to penalties and invalidated the bonds. The state court had held that as the application for the certificate was voluntary the company was estopped to decline to pay the statutory compensation, and it was therefore contended on behalf of the state that the case presented no federal question. But the Supreme Court found that the certificate was a commercial necessity and that the payment was under duress and that the constitutionality of the requirement was therefore in issue. The state had imposed a charge of $10,962.25 for an issue of $31,848,900 by a Utah corporation which had in Missouri property valued at a little more than $3,000,000 out of a total of over $281,000,000, and less than a mile of main track out of a total of over 3500 miles. Of the expenditures for which the bonds were issued, less than $125,000 had been made in Missouri. The Missouri business of the complaining foreign corporation was exclusively interstate. The company contested the charge under the due-process clause of the Fourteenth Amendment as well as under the commerce clause, but the decision of the Supreme Court was based entirely on the commerce clause, no mention being made of the Fourteenth Amendment. The reliance of the court on

[12] (1919) 249 U. S. 389, 39 Sup. Ct. 320.

[13] (1918) 248 U. S. 67, 39 Sup. Ct. 24. See 32 *Harvard Law Review* 579 and 28 *Yale Law Journal* 291.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Looney v. Crane Co.[14] and International Paper Co. v. Massachusetts[15] shows that the decision would have been the same even if the company had done local as well as interstate commerce in Missouri, and that the Supreme Court intends to apply to fees for special acts the same principles or practices which have been worked out with respect to annual excises on foreign corporations.

The Looney case was relied on unsuccessfully by the complainant in American Mfg. Co. v. St. Louis[16] who did not relish a license tax on manufacturers assessed at one dollar for each $1000 of sales and complained particularly of such part of the tax as was measured by sales of goods removed from the factory to another state before sale. The crucial issue in the case was whether the tax was on the sales or on the manufacture. The Supreme Court followed the state court in holding that it was the manufacture and not the sales that subjected the company to taxation and declared that, since the city might have measured the tax by the value of the goods at the time and place of manufacture and compelled payment of the tax then and there, the manufacturer could not complain because payment was postponed until sale. The state court had held that the tax did not apply to sales of goods not manufactured within the taxing jurisdiction. Mr. Justice Pitney is probably justified in saying that the Looney case and Crew Levick Co. v. Pennsylvania[17] "are so obviously distinguishable that particular analysis is unnecessary," yet it is evident that commercial transactions outside the state of manufacture contributed somewhat to the amount of the tax. This element was dealt with by declaring that the tax produces no direct burden on interstate commerce, but "only the same kind of incidental and indirect effect as that which results from the payment of property taxes or any other general contribution to the cost of government."

Another covert attempt to extract an unconstitutional tribute from interstate commerce was charged by the complainant in Postal Telegraph-Cable Co. v. Richmond,[18] but was not sustained by the court. One of the matters in issue was a $300 license tax on local business. It was contended that the cost of doing the local business was greater than the net receipts from it, and that, as the company was not free

[14] (1917) 245 U. S. 178, 13 *American Political Science Review* 53.
[15] (1918) 246 U. S. 135.
[16] (1919) 250 U. S. 459, 39 Sup. Ct. 522.
[17] (1917) 245 U. S. 292, 13 *American Political Science Review* 55.
[18] (1919) 249 U. S. 252, 39 Sup. Ct. 265.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to decline local business, the tax was necessarily on interstate commerce. Mr. Justice Clarke stated that "if the facts were as thus asserted it might well be that this tax would be invalid," but the evidence as to the unremunerative character of the local business failed to convince the court and the tax was therefore sustained. It was declared that the tax was not an inspection measure which must be limited to the cost of supervising the business, but "an exercise of the police power of the state for revenue purposes"—a hybrid locution which seems to blur the distinction between police and fiscal measures which has previously been regarded as significant.

The same case sustained another tax of two dollars for each pole maintained or used within the city. This, too, was called an "exercise of the police power" to exact a compensation in the nature of rental for the use of the streets. It was declared that even if the tax had to be paid from interstate earnings, "this alone would not be conclusive against its validity," since "even interstate business must pay its way—in this case for the right of way and the expense to others incident to the use of it." Enough consideration was given to the evidence as to the cost of inspecting and supervising the lines within the city to indicate that the charge might possibly have been successfully complained of if imposed as rental only.

Another so-called "pole tax" came before the court in Mackay Telegraph & Cable Co. v. Little Rock[19] and was also sustained. The tax was levied at fifty cents per pole, and the company resisted only that part which was levied on poles not on the streets of the city but on a railroad right of way. This was said to be not sufficient to condemn it, "especially in view of the finding of the Supreme Court of Arkansas that the telegraph line as laid along the right of way crosses a street car line and several turnpikes coming into the city, and that it is necessary there shall be local governmental supervision of the lines crossing these highways for the protection of travelers upon them."

The substantial issue in Wells Fargo & Co. v. Nevada[20] was whether a state tax on an express company assessed at $300 per mile of line over which it did business was imposed on the property or on the privilege or franchise. The assessor had described the property as consisting of the right to carry on the business, but the Supreme Court agreed with the state court that this was a mistake and that under the statute what was being taxed was the company's personal property, tangible

[19] (1919) 250 U. S. 94, 39 Sup. Ct. 428.
[20] (1918) 248 U. S. 165, 39 Sup. Ct. 62.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and intangible. "The difference," says Mr. Justice Van Devanter, "is vital, for, consistently with the commerce clause of the federal Constitution, the state could not tax the privilege or act of engaging in interstate commerce, but could tax the company's property within the state, although chiefly employed in such commerce." The company also alleged that "the state board in valuing the property acted on inaccurate data and applied erroneous standards which resulted in a valuation so excessive as to make the tax a burden on interstate commerce," but the Supreme Court did not find the allegation supported by the evidence.

The willingness of the Supreme Court to make the inquiry just referred to indicates that an excessive valuation of property employed in interstate commerce is a violation of the commerce clause, even though the property does not travel from one state to another. Union Tank Line v. Wright[21] establishes the principle firmly as to peripatetic property. The Union Tank Line had in Georgia through the taxable year an average of fifty-seven cars which were admittedly worth as separate items of property not more than $47,310. By taking that proportion of the total personal property of the company which the number of miles over which cars were run in Georgia bore to the total number of miles over which they were run, the Georgia property was assessed at $291,196. This assessment, the minority of the court, consisting of Justices Pitney, Brandeis and Clarke, were moved to sustain, contending that controversy was foreclosed by Pullman's Car Co. v. Pennsylvania.[22] The majority insisted that the declarations from the Pullman case relied on by the minority related to a matter not in issue and were therefore *obiter*. They conceded that the valuation of the property in Georgia need not be limited to the mere worth of the articles separately considered but may include the intangible value due to the organic relation of the property in the state to the whole system. The minority thought that the actual value of the property so conceived was so difficult of ascertainment that the rule adopted and applied was sufficiently accurate to satisfy the Constitution. With this the majority disagreed, insisting that the rule adopted had no necessary relation to the real value and was so arbitrary and the consequent valuation so excessive that it must be condemned because of conflict with both the commerce clause and the Fourteenth

[21] (1919) 249 U. S. 275, 39 Sup. Ct. 276. See 19 *Columbia Law Review* 334, 3 *Minnesota Law Review* 421, and 28 *Yale Law Journal* 802.

[22] (1891) 141 U. S. 18.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Amendment. "During a year two or three cars might pass over every mile of railroad in one state while hundreds constantly employed in another moved over lines of less total length." The opinion does not make clear whether the court means to condemn the mileage rule universally in favor of all car companies or only in favor of those who can show that it operates unreasonably in their particular case. It is recognized that it may be applied to a telegraph company.[23]

B. State Police Power and Interstate Commerce

Several cases involved alleged conflict between attempted enforcement of state inspection or pure food laws and congressional legislation or the constitutionally guaranteed immunity of interstate commerce from state interference. Corn Products Refining Co. v. Eddy[24] sustained an order of the Kansas board of health requiring plaintiff to state on each can of syrup the percentage of each ingredient of which it was composed "not only when sold and offered for sale in domestic commerce, but also while in the hands of the importing dealers for sale in the original packages, and hence, in contemplation of law, still in the course of commerce from state to state." Congress had prohibited the misbranding of foods shipped in interstate commerce but had not required a statement of their ingredients. On the authority of Savage v. Jones[25] it was held that the state law forbade nothing that Congress had sanctioned and interfered with no federal requirement, but dealt with something that Congress had left untouched. The same precedent, following earlier ones, had sustained the power of the state to require the disclosure of the ingredients of food products even when contained in the original package introduced from another state.[26]

[23] In Watters v. Michigan, (1918) 248 U. S. 65, 39 Sup. Ct. 29, it was conceded by appellant that the peddling of two small articles at rest in the state before the sale was not protected from state taxation by the federal Constitution even though the great bulk of the business was interstate, but it was urged that the application of the state law should be determined by the general course of business and not by an isolated transaction. Mr. Justice Holmes said that the argument had force, but that its denial by the state court was not reviewable by the Supreme Court.

[24] (1919) 249 U. S. 427, 39 Sup. Ct. 325.

[25] (1912) 225 U. S. 501, 32 Sup. Ct. 715.

[26] Two cases dealing with state inspection of illuminating oils while still under the protection of the commerce clause have already been considered. See footnotes 11 and 12, *supra*.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Weigle v. Curtice Brothers Co.[27] and Hebe Co. v. Shaw[28] held that the federal Pure Food and Drug Act in no way affected the power of the state to forbid intrastate sales of food products originating in other states. The contention to the contrary was based on McDermot v. Wisconsin[29] which sanctioned the power of Congress to require the retention of labels on goods shipped in interstate commerce even after the commerce is over and the original package has been broken, and which denied the power of the states to make the retention of such labels unlawful. "But all this," remarks Mr. Justice Holmes, "has nothing to do with the question when interstate commerce is over and the articles carried in it have come under the general power of the State." After saying that the federal act "indicates its intent to respect the recognized line of distinction between domestic and interstate commerce," he adds that "it naturally would, as the distinction is constitutional," thus implying that the power of the state over domestic sales could not be interfered with by Congress except to prevent state interference with the enforcement of federal regulations governing interstate shipment. The Weigle case sustained state prohibitions against local sales of food products containing benzoic acid or benzoates even though shipped from other states in full compliance with the federal law. The Hebe case dealt similarly with condensed milk unless made from full cream milk.

In Merchants' Exchange v. Missouri[30] the United States Grain Standards Act was held not to preclude a state from prohibiting any one but a state weigher from issuing weight certificates for grain weighed at a public warehouse, since the federal law related exclusively to standards of quality and condition. The contention that the state requirement, as applied to grain received from or shipped to points without the state, burdens interstate commerce received from Mr. Justice Brandeis the terse answer: "It clearly does not." Other federal acts which were conceded to contain some reference to weighing were said to manifest the purpose of Congress to coöperate with state acts and not to supersede them.[31]

[27] (1919) 248 U. S. 285, 39 Sup. Ct. 124.
[28] (1919) 248 U. S. 297, 39 Sup. Ct. 125.
[29] (1913) 228 U. S. 115.
[30] (1919) 248 U. S. 365, 39 Sup. Ct. 114.
[31] In Louisville & N. R. Co. v. Western Union Tel. Co., (1919) 250 U. S. 316, 39 Sup. Ct. 513, a state grant of the right of eminent domain to put poles on a railroad right of way was held not to be precluded by the acts of Congress authorizing the erection of such poles along post roads.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In two cases the Carmack Amendment was found not to preclude the exercise of the state power in question. In Missouri, K. & T. Ry. Co. v. Sealy[32] the cause of action arose prior to the enactment of the federal statute and it was held that the right of one holding an interest in a bill of lading against the carrier which had issued it without receiving the goods for shipment was governed by the law of the state. State law was also held to be controlling in Chicago, R. I. & P. Ry. Co. v. Maucher[33] which was a suit by one of the employees of Barnum & Bailey's circus against an interstate railroad on account of personal injuries received. The Carmack Amendment was declared to have no application to the controversy, since Congress had dealt only with the shipment of property and not with that of persons. Moreover it was found that under the contract between the circus and the railroad, the latter was not acting as a common carrier, and that therefore the injured employee of the circus must base his claim, not upon a contract of carriage, but upon the general right of a human being not to be injured by the negligence of another.

Another circus case came before the court in Southern Pacific Co. v. Arizona.[34] The road had disobeyed an order of the state commission to carry the show at a designated rate between two Arizona points. It defended a prosecution for contempt on the ground that the state commission was without jurisdiction because the proposed train movement was interstate, since the show was on a tour from Texas, through Arizona and New Mexico into California. The court found, however, that on the date of the order the interstate transportation into Arizona was at an end and no other transportation had then been contracted for. The mere intention to leave the state later did not convert the contemplated intrastate movement into one that was interstate. The reasoning on which the decision is based gives some ground for the inference that the halting movements of a traveling exhibition might under certain circumstances be regarded as a single journey whose entire character would be interstate if the beginning and the end were in different states.

In two other cases state rates were held applicable because the movement in question was not interstate. Arkadelphia Milling Co. v. St. Louis Southwestern Ry. Co.[35] dealt with transportation of logs

[32] (1919) 248 U. S. 363, 39 Sup. Ct. 97. See 17 *Michigan Law Review* 420.
[33] (1919) 248 U. S. 359, 39 Sup. Ct. 108.
[34] (1919) 249 U. S. 472, 39 Sup. Ct. 313.
[35] (1919) 249 U. S. 134, 39 Sup. Ct. 237.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

from a forest to a mill, both in Arkansas. The fact that experience showed that ninety-five per cent of the finished product was shipped from the mill to points in other states was held insignificant. The distinction between the case and those[36] in which under somewhat similar states of facts the federal antitrust law has been held applicable was declared to be "so evident that particular analysis may be dispensed with."

In Public Utilities Commission v. Landon[37] a natural gas company which piped gas across state lines and sold it to distributing companies which sold it to consumers complained that the rates fixed for the distributing companies were unreasonably low and were also unwarranted interferences with interstate commerce. But the Supreme Court held that the interstate movement ended when the gas passed into the local lines, and that the rates fixed for the distributing companies were no concern of the producing company. The fact that the charges of the latter were a percentage of the gross amount received by the former was said not to make the sales to consumers an integral part of the interstate business, particularly since the contracts between the two companies were capable of alteration.

One of the complaints urged in Denver & Rio Grande R. Co. v. Denver[38] against an order of a state commission compelling the vacating of a track on the public street was that it interfered unduly with interstate commerce and amounted to an unconstitutional regulation thereof. But the Supreme Court found to the contrary in view of the fact that the track was not on the main line but served only a few industries which could be reached in other ways.

Carey v. South Dakota[39] which sustained a state prosecution for shipping wild ducks has already been referred to for its bearing on the constitutionality of the federal Migratory Bird Law. The power of the state to apply its prohibitions to interstate transit was sustained on the authority of Geer v. Connecticut.[40] The clause in the federal law declaring that such birds shall be deemed within the protection and custody of the United States was held to extend that custody and protection only to prohibiting their destruction contrary to federal regulations, and therefore not to preclude state laws aimed also at their preservation.

[36] Texas & N. O. R. Co. v. Sabine Tram Co. (1913) 227 U. S. 111, and cases cited.
[37] (1919) 249 U. S. 236, 39 Sup. Ct. 268. See 32 *Harvard Law Review* 860.
[38] (1919) 250 U. S. 241, 39 Sup. Ct. 450.
[39] (1919) 250 U. S. 118, 39 Sup. Ct. 403, note 10, *supra*.
[40] (1896) 161 U. S. 519, 16 Sup. Ct. 600.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

II. THE WAR POWER

In two important cases the court decided that the statutes under which the President was authorized to take control of the railroads, telephones and telegraphs during the war conferred power to fix intrastate as well as interstate rates. In Northern Pacific Ry. Co. v. North Dakota,[41] which involved railroad rates, the parties had raised only the question of the interpretation of the statute, but the opinion of the Chief Justice is assumed by the Chief Justice in his opinion in the telephone case to pass on the constitutional question as well. There is a back-handed implication in the opinion in the railroad case that the constitutional issue could not be waived by the parties, for, after observing that the court puts the constitutional issue temporarily out of view, the Chief Justice adds: "We say temporarily, since even upon the assumption that issues concerning them necessarily inhere in the cause and cannot be waived by the parties, we could not decide concerning such issues without interpreting the statute, which we proceed to do." In the process of interpretation it is laid down: "The complete and undivided character of the war power of the United States is not disputable. . . . . To interpret, therefore the exercise of the power by a presumption of the continuance of a state power limiting and controlling the national authority was but to deny its existence. It was akin to the contention that the supreme right to raise armies and use them in case of war did not extend to directing where and when they should be used."

That this language was designed to pass on the constitutional issue not raised by the parties is apparent from the statement in Dakota Central Telephone Co. v. South Dakota[42] decided the same day. In sustaining the power to take over the telephones and telegraphs and to fix all rates, the Chief Justice says: "That under its war power Congress possessed the right to confer upon the President the authority which it gave him we think needs nothing here but statement, as we have disposed of that subject in the North Dakota railroad rate case." To this he added: "And the completeness of the war power under

[41] (1919) 250 U. S. 135, 39 Sup. Ct. 502.

[42] (1919) 250 U. S. 163, 39 Sup. Ct. 507. Other cases deciding the same issues are Burleson v. Dempsey, (1919) 250 U. S. 191, 39 Sup. Ct. 511, Macleod v. New England Tel. & Tel. Co., (1919) 250 U. S. 195, 39 Sup. Ct. 511, and Kansas v. Burleson, (1919) 250 U. S. 188, 39 Sup. Ct. 512. For an article on the interpretation of the statute, published prior to these decisions, see H. W. Bickle, "State Power over Interstate Railroad Rates During Federal Control," 32 *Harvard Law Review* 299.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

which the authority was exerted and by which completeness its exercise is to be tested suffices, we think, to dispose of the many other objections urged as to the want of power in Congress to confer upon the President the authority which it gave him."

To the contention that the President exceeded the power given "because there was nothing in the conditions at the time the power was exercised which justified the calling into play of the authority," the answer is made that "as the contention at best concerns not a want of power, but a mere excess or abuse of discretion in exerting a power given, it is clear that it involves considerations which are beyond the reach of judicial power." What this means is open to debate. It may mean that whatever Congress calls an exercise of the war power is an exercise of the war power. It may mean that if there are any conceivable circumstances under which a statute or proclamation would be an exercise of the war power, it is an exercise of the war power whatever the circumstances may be. Or it may mean only that the complete control of railroads and telegraphs is plainly an exercise of the war power quite apart from any other circumstances than the existence of a state of war. In the telephone case Mr. Justice Brandeis dissented, without opinion. In the railroad case he confined his concurrence to the result. Of both cases it may be said that the result is more satisfying than the opinions.

The war power was found sufficient in McKinley v. United States[43] to sustain the order of the secretary of war forbidding houses of ill fame within five miles of an army post. The authority of Congress to regulate for the health and welfare of the army was said to be "too well settled to require more than the statement of the proposition" and the regulation in question was found obviously related to the health and efficiency of the troops.

Three cases[44] sustaining convictions under the Espionage Act plainly sanction the proposition that Congress under the war power may forbid the making of remarks which tend to interfere with the raising of the army either by enlistment or the draft. The issue in the cases was the degree of the relation between the remarks and the danger of the interference sought to be prevented by the statute. The questions considered in the opinions will be dealt with in a later section dealing with immunities of persons charged with crime.

[43] (1919) 249 U. S. 397, 39 Sup. Ct. 324.

[44] Schenck v. United States, (1919) 249 U. S. 47, 39 Sup. Ct. 247, Frohwerk v. United States, (1919) 249 U. S. 204, 39 Sup. Ct. 249, Debs v. United States, (1919) 249 U. S. 211, 39 Sup. Ct. 252.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

III. MISCELLANEOUS FEDERAL POWERS

Though the question in Alaska Pacific Fisheries v. United States[45] seemed to be the construction of the words "the body of lands known as the Annette Islands" in an Act of Congress creating a reservation for Indians, Mr. Justice Van Devanter observed that in reaching the construction it is important to have in mind the power of Congress in the premises and declared that Congress had the "power to make the reservation inclusive of the adjacent waters and submerged land," since "all were the property of the United States and within a district where the entire dominion and sovereignty rested in the United States and over which Congress had complete legislative authority."

In Ruddi v. Rossi[46] the power of Congress to dispose of public lands was held to carry with it authority to exempt such lands after conveyance in fee simple to private owners from any attachment for debts contracted prior to the issue of the patent. Mr. Justice Holmes dissented because he was unable to see how Congress could extend its control beyond the time when its ownership was at an end. He insisted that "the statute must operate, if at all, purely by way of legislation, not as the qualification of the grant," and thought that a previous law could not affect the land in any way that a subsequent one could not. But he added with combined resignation and regret: "I am aware that my doubts are contrary to manifest destiny and to a number of decisions in the State Courts. I know also that when common understanding and practice have established a way it is a waste of time to wander in bypaths of logic."

Another instance in which Congress was allowed to prolong its control beyond the time when the major incidence of the control had ended appears in Capital Trust Co. v. Calhoun[47] in which a restriction in an appropriation as to the amount which attorneys for the beneficiaries might receive from the proceeds was applied to defeat a claim of such attorneys against the estate of the deceased beneficiary which was being administered in a state court. It chanced that the estate consisted entirely of the funds received from the government, so that the decision did not involve the power of Congress over funds received from other sources.

[45] (1919) 248 U. S. 78, 39 Sup. Ct. 40.

[46] (1918) 248 U. S. 104, 39 Sup. Ct. 46. See 19 *Columbia Law Review* 159, 4 *Cornell Law Quarterly* 50, 32 *Harvard Law Review* 721, and 28 *Yale Law Journal* 283.

[47] (1919) 250 U. S. 208, 39 Sup. Ct. 486. For a note on an earlier case in the District of Columbia on the same question, see 17 *Columbia Law Review* 483.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

An important question of legislative procedure was settled in Missouri Pacific Ry. Co. v. Kansas[48] which held that the word "House" in the clause requiring a two-thirds vote in each house for passing a bill over the President's veto means not the entire membership but the quorum which is sufficient to entitle the house to proceed to the original passage of the bill by a majority vote. If a majority of all the members is present, a bill may be passed over a veto by two-thirds of those present. In reaching the decision the court attached great weight to legislative practice in submitting constitutional amendments by a vote of two-thirds of a quorum but not two-thirds of the entire membership and referred to "the identity between the provision . . . . giving the power by a two-thirds vote to submit amendments, and the requirements . . . . as to the two-thirds vote necessary to override a veto" which "makes the practice as to the one applicable to the other." The practice of submitting amendments by a vote of less than two-thirds of the entire membership was found to have been approved by the first Congress in the submission of the first ten amendments. In emphasizing the importance of this early legislative construction, the Chief Justice observed: "When it is considered that the chairman of the committee in charge of the amendments was Mr. Madison, and that both branches of Congress contained many members who had participated in the deliberations of the convention or in the proceedings which led to the ratification of the Constitution, and that the whole subject was necessarily vividly present in the minds of those who dealt with it, the convincing effect of the action cannot be overstated."

IV. GOVERNMENTAL RELATIONS BETWEEN THE STATES AND THE UNITED STATES

It is surprising that the question decided in Bank of California v. Richardson[49] had not been raised and settled previously. The stockholders of a national bank claimed that the assessment of their shares for state taxation should exclude such part of their value as was contributed by the shares of state and national banks owned by the bank of which they were stockholders. The Supreme Court agreed that no

[48] (1919) 248 U. S. 276, 39 Sup. Ct. 93. See 28 *Yale Law Journal* 415.

[49] (1919) 248 U. S. 476, 39 Sup. Ct. 165. See also Bank of California v. Roberts, (1919) 248 U. S. 497, 39 Sup. Ct. 171. See 19 *Columbia Law Review* 59, 32 *Harvard Law Review* 727, 3 *Minnesota Law Review* 257, and 28 *Yale Law Journal* 610.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

deduction should be made on account of the shares in a state bank, but the majority held that the value of the shares of the national bank should be deducted. The reason given was that the power of the state to tax national bank stock was wholly dependent upon congressional permission, that the permission was confined to a single tax on the interest of the stockholder, and that the shares were in effect taxed twice if they were taxed to the national bank which owned them and then entered again into the assessment of the shares in the owner bank. The minority, consisting of Justices Pitney, Brandeis and Clarke, insisted that it was well established that the interest of a stockholder in a national bank was taxable without regard to the character of the investments held by the bank, and saw no reason why investments in other national banks should be deducted in making the assessment when investments in United States bonds can be included. It found nothing in the congressional statute which required the deduction and brought to bear the conventional distinction between the property of the shareholder and the property of the bank.

Chesapeake & Delaware Canal Co. v. United States[50] applied the established rule that the United States when asserting sovereign or governmental rights is not subject to state statutes of limitations.[51]

V. POLICE POWER

The modern development of the police power renders it difficult to classify present day cases under the familiar categories of health, safety and morals. The same statute often has several purposes and protects different interests. Restrictions on the sale of food products, for example, pass beyond the prevention of disease and aim to satisfy the curiosity of the consumer and to protect the farmer from unwelcome competition from synthetic products. Control of the relations between employer and employee transcends the primary requirements of health and safety and has something to do with conceptions of fair

[50] (1919) 250 U. S. 123, 39 Sup. Ct. 407.

[51] Cavanaugh v. Looney, (1919) 248 U. S. 453, 39 Sup. Ct. 142, recognized the familiar rule that a federal court may enjoin proceedings by state officials in violation of the federal Constitution, but, in applying the subsidiary rule that this should not be done except in a case reasonably free from doubt and when necessary to prevent great and irreparable injury, denied relief.

In Barrett v. Virginian Ry. Co., (1919) 250 U. S. 473, 39 Sup. Ct. 540, Mr. Justice McReynolds remarked *obiter* that the rule of the federal courts as to directing verdicts is not subject to modification by state statutes and constitutions.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

dealing. Regulation of commercial intercourse is no longer confined to prevention of the types of fraud known at common law. Public convenience is a well-recognized justification for impositions on those engaged in enterprises known as public utilities. Most of the current decisions on the police power may be conveniently put under one of the three heads of commercial intercourse, industrial relations, and public utilities. A few which could not be put under commercial relations without undue squeezing have in common the control of physical conditions. Obviously these classifications are not mutually exclusive and will not bear rigid scientific scrutiny. Such merit as they have, if any, is mainly that of convenience.

PHYSICAL CONDITIONS

Both safety and health lay behind the statute sustained in Perley v. North Carolina[52] which required any one cutting timber within four hundred feet of a watershed owned by a municipality to remove waste parts so as to prevent the spread of fire and consequent danger to the watershed. The fact that similar neglects on the part of the municipality did not constitute a violation of the statute was held not to constitute an illegal discrimination under the equal-protection clause.

Safety was the obvious justification for the ordinance approved in Pierce Oil Corporation v. Hope[53] which forbade "the storing of petroleum, gasoline, etc. within three hundred feet of any dwelling, beyond certain small quantities specified." The court refused to regard the complainant's praise of the safety of its tanks as confessed by the city's demurrer and added that "if it were true that the necessarily general form of the law embraced some innocent object, that of itself would not be enough to invalidate it or to remove such an object from its grasp." It was hinted, however, that special circumstances might induce the court to make an exception, but none were found in the case at bar.

Aesthetic considerations as a justification for restrictions on the use of property made some slight progress towards recognition in St. Louis Poster Advertising Co. v. St. Louis,[54] which sustained an ordinance limiting the area of billboards to 400 square feet, their height

[52] (1919) 249 U. S. 510, 39 Sup. Ct. 357.
[53] (1919) 248 U. S. 498, 39 Sup. Ct. 172.
[54] (1919) 249 U. S. 269, 39 Sup. Ct. 274. See 28 *Yale Law Journal* 835.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

above ground to 14 feet, requiring a space of 4 feet between them and the ground, and forbidding them nearer than 6 feet to a building or the side of the lot, or nearer than 2 feet to each other or 15 feet to the street. The company appeared to have eliminated dangers from wind and fire, but Mr. Justice Holmes observed that such dangers "are or may be the least of the objections adverted to in the cases," and added: "Possibly one or two details, especially the requirement of conformity to the building line, have aesthetic considerations in view more obviously than anything else. But as the main burdens imposed stand on other ground, we should not be prepared to deny the validity of relatively trifling requirements that did not look solely to the satisfaction of rudimentary wants that alone we generally recognize as necessary." The Thomas Cusack case[55] was referred to as standing for the power to prohibit billboards altogether in residence districts, so that they seem to be doomed so far as the federal Constitution is concerned. Of the fee charged by St. Louis for permits to erect the authorized billboards, the court remarked that "if the city desired to discourage billboards by a high tax we know of nothing to hinder, even apart from the right to prohibit them altogether. . . . ."

A statute of Georgia prohibiting the possession of more than one gallon of intoxicating liquor came before the court in Barbour v. Georgia.[56] The state court had assumed that the liquor was acquired between the enactment of the statute and the time when its prohibition became effective, and the Supreme Court held that property thus acquired is taken with full notice of its infirmity and that its mere possession may by lapse of time become a crime. One can no more stay the exercise of the state's police power by acquiring property under such circumstances than by making a contract. An objection that the law could not be applied to liquor acquired before its enactment was found not to be properly raised, and the court declared that on that issue no opinion was expressed.

COMMERCIAL INTERCOURSE

It may be suspected that the votes of farmers had something to do with two statutes imposing restrictions on the sale of food which successfully ran the gauntlet of the due-process clause. That sus-

[55] Thomas Cusack Co. v. Chicago, (1917) 242 U. S. 526, 12 *American Political Science Review* 442.

[56] (1919) 249 U. S. 454, 39 Sup. Ct. 316. See 17 *Michigan Law Review* 709 and 28 *Yale Law Journal* 836.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tained in Hebe Co. v. Shaw[57] forbade the sale of any condensed milk not made from unadulterated full cream milk. The minority consisting of Justices Day, Van Devanter and Brandeis thought that the statute did not apply to the plaintiff's product which was labeled "Hebe; A Compound of Evaporated Skimmed Milk and Vegetable Fat; Contains 6% Vegetable Fat, 24% Solids; For Coffee and Cereals, For Baking and Cooking." The majority, however, took the view that condensed skimmed milk was forbidden in every form, however labeled and whatever ingredients were added. It seemed to be conceded that the product was not unwholesome, but it was thought that fraudulent palming off was not necessarily prevented because the label told the truth, since the consumer in many instances never sees the label. On the constitutional question Mr. Justice Holmes observed: "The purposes to secure a certain minimum of nutritive elements and to prevent fraud may be carried out in this way even though condensed skimmed milk and Hebe should both be admitted to be wholesome. The power of the legislature 'is not to be denied simply because some innocent articles or transactions may be found within the proscribed class.' . . . . The answer to the inquiry is that the provisions are of a kind familiar to legislation and often sustained and that it is impossible for this Court to say that they might not be believed to be necessary in order to accomplish the desired ends."

The Kansas statute sustained in Corn Products Refining Co. v. Eddy[58] was less drastic. The plaintiff was required to state the ingredients of a compound which in full compliance with the federal law it had labeled "Mary Jane. A Table Syrup Prepared from Corn Syrup, Molasses and Pure Country Sorghum. Contains Sulphur Dioxide." To the complaint that the disclosure of the ingredients and their proportions in a wholesome product made under a secret formula was a denial of due process, Mr. Justice Pitney answered: "Evidently the purpose of the requirement is to secure freedom from adulteration and misbranding; the mischief of misbranding being that purchasers may be misled with respect to the wholesomeness or food value of the compound. And it is too plain for argument that a manufacturer or vendor has no constitutional right to sell goods without giving to the purchaser fair information of what it is that is being sold. The right of a manufacturer to maintain secrecy as to his

[57] (1919) 248 U. S. 297, 39 Sup. Ct. 125, footnote 28, *supra*. See 28 *Yale Law Journal* 512.

[58] (1919) 249 U. S. 427, 39 Sup. Ct. 325, footnote 24, *supra*.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

compounds and processes must be held subject to the right of the state, in the exercise of its police power and in promotion of fair dealing, to require that the nature of the product be fairly set forth."

The prevention of fraud and the facilitation of commercial transactions were the justifications adduced by Mr. Justice Brandeis in Merchants' Exchange v. Missouri[59] for a statute which restricted the issuing of weight certificates for grain to duly authorized and bonded state weighers. The limitation of the provision to grain and hay was held not to be an arbitrary discrimination against dealers in those articles. Payne v. Kansas[60] found no constitutional flaw in a Kansas statute which forbade the sale of farm produce on commission without an annual license, to be procured from the State Board of Agriculture upon a proper showing as to character, responsibility, etc., and a bond conditioned to make honest accounting. The issue was thought to be so simple that it was disposed of in a memorandum opinion.

Two statutes regulating insurance agents and brokers met with unanimous approval. The South Carolina law complained of in La Tourette v. McMaster[61] defined an insurance broker "to be such person as shall be licensed by the insurance commissioner to represent citizens" in securing policies. No one could receive a license unless he was a resident of the state and had been a licensed insurance agent of the state for at least two years. The alleged impairment of the privileges and immunities of citizens of the several states was answered by pointing out that the requirement of residence was not identical with that of citizenship and that there might be reason to think the business would be best conducted by residents. The business of insurance was declared to be clothed with a public interest, and it was said to follow that "those engaged in it or who bring it about are affected with the same interest and subject to regulation as it is." The fidelity of an insurance broker to both insured and insurer was said to be a proper concern of the state and the means devised to secure it were thought appropriate.

The statute sustained in American Fire Insurance Co. v. King Lumber & Mfg. Co.[62] ordained that the person who solicits insurance and procures applications shall be deemed the agent of the insurer notwithstanding anything in the policy to the contrary. The statute

[59] (1919) 248 U. S. 365, 39 Sup. Ct. 114, footnote 30, *supra*.
[60] (1918) 248 U. S. 112, 39 Sup. Ct. 32.
[61] (1919) 248 U. S. 465, 39 Sup. Ct. 160. See 28 *Yale Law Journal* 601.
[62] (1919) 250 U. S. 2, 39 Sup. Ct. 431.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

was on the books when the business involved in the suit was transacted, and Mr. Justice McKenna reminded the company of this, so that it is not certain that the statute would be applied retroactively. The company's "attempt at rejection" was said to suggest that the purpose of the statute "was to preclude confusion and dispute as to the relation of the broker to the parties respectively, and to preclude an underwriter, after using an agency, from denying responsibility."

INDUSTRIAL RELATIONS

Dominion Hotel v. Arizona[63] sustained the conviction of a hotel keeper for not confining the eight-hour working period of an employee to a period of twelve hours and rejected his complaint that he was denied the equal protection of the laws by the provision in the statute exempting from the twelve-hour limit railroad restaurants and eating houses on railroad rights of way operated by or under contract with the railroad company. After remarking that "the Fourteenth Amendment is not a pedagogical requirement of the impracticable," Mr. Justice Holmes added that the state "may do what it can to prevent what is deemed an evil and stop short of those cases in which the harm to the few concerned is thought less important than the harm to the public that would ensue if the rule laid down were mathematically exact." So long as the theory of the distinction adopted by the state is justifiable, "the fact that some cases, including the plaintiff's, are very near to the line makes it none the worse. That is the inevitable result of drawing a line where the distinctions are distinctions of degree; and the constant business of the law is to draw such lines."

In Middleton v. Texas Power and Light Co.[64] an injured employee who had been denied recovery at common law on the ground that his sole remedy was under the workmen's compensation act complained under the equal-protection and the due-process clauses, but without success. The statute made it optional with the employer to subscribe to the state fund, required subscribing employers to notify their employees, and confined the remedy of such employees to the graded compensation stipulated by the act. To the lament that the employer had a choice whether to come under the act while the employee had not, Mr. Justice Pitney answered that the former accepts by becoming a subscriber while the latter accepts by remaining in the employer's

[63] (1919) 249 U. S. 265, 39 Sup. Ct. 273.
[64] (1919) 249 U. S. 152, 39 Sup. Ct. 227. See 28 *Yale Law Journal* 599.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

service and that each has the opportunity to choose. The loss by the employee of the right to contract with a subscribing employer outside the terms of the act was justified by saying that no one has a vested right to have the rules of law remain unchanged for his benefit, and that compensation laws compulsory on both employer and employee had been previously sustained. The employee complained also because he was discriminated against in favor of other employees who retained their common-law remedies, but all the distinctions were held reasonable. These included the exemption or exclusion of farm laborers, domestic servants, those who worked for a nonsubscribing employer or for one having less than five employees, cotton-gin laborers and railroad employees. The justification for the latter distinction was said to be the existence of the federal Employers' Liability Law and the difficulty of determining in particular instances whether an employee was engaged in interstate commerce at the time of his injury and therefore excluded from the operation of a state compensation law.

It was the employer who objected to the Arizona employers' liability law, sustained in Arizona Employers' Liability Cases[65] by a vote of five to four. This differed from the usual compensation law in that the employee, instead of getting a statutory compensation from a commission, had the damages for his injury assessed by a jury. The employer insisted that it was unconstitutional to impose on him liability without fault unless the amount that could be recovered was restricted. This view was shared by Justices McKenna and McReynolds in their separate dissenting opinions, in which the Chief Justice and Mr. Justice Van Devanter concurred. But Mr. Justice Pitney for the majority pointed out it was not true that the responsibility of the employer was unlimited except as it is true of every action for compensatory damages tried before a jury. The objection that juries are prone to render extravagant verdicts was met by referring to the corrective in the authority of the court to set aside an exorbitant verdict and by saying that it was a contradiction in terms to posit a denial of due process in the submission of a controversy between litigants to the established courts, "there to be tried according to long established modes and with a constitutional jury to determine the issues of fact and assess compensatory damages. . . . ." Mr. Justice Holmes in a separate concurring opinion, in which Justices Brandeis and Clarke joined, pointed out that other statutes had put on the employer the risk of what the employee might do and had been

[65] (1919) 250 U. S. 400, 39 Sup. Ct. 553.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

found not to offend the Constitution, and that the criterion of fault to which the employer claimed himself entitled was an external standard, applied by a jury, "which the defendant has to satisfy at his peril and which he may miss after giving the matter his best thought." Of the public policy justifying the statute he said: "There is no more certain way of securing attention to the safety of the men, an unquestionably constitutional object of legislation, than by holding the employer liable for accidents."

PUBLIC UTILITIES

Several minor complaints of carriers may be treated briefly. Denver & Rio Grande R. Co. v. Denver[66] found no lack of due process in requiring the removal of a side track from the highway when the road had other means of reaching the desired goal, the existing tracks menaced safety, and removal was less burdensome to the road than building a tunnel or viaduct would be. Chicago & N. W. Ry. Co. v. Ochs[67] sustained an order requiring the extension of a side track, partly at the expense of the carrier, from the main line to a manufacturing plant, the same being not merely a private siding, but additional trackage for public use, and wholly under the control of the carrier. Lake Erie & W. R. Co. v. State Public Utilities Commission[68] approved an order to restore a similar track which the road had removed. The circumstances of each case were such that the respective orders were deemed reasonable and therefore not takings of property without due process nor for a public use without just compensation.

Detroit & M. R. Co. v. Fletcher Paper Co.[69] withheld comfort from a carrier which complained that the state denied it opportunity to contest the reasonableness of rates in proceedings brought by shippers for overcharge. Such opportunity had been offered and availed of in prior proceedings and the court declared that "there is nothing to hinder a State from providing that after a judicial inquiry into the validity of such an order it shall be binding upon the parties until changed."

Of much greater importance were three cases on the question of reasonable rates. Lincoln Gas & Electric Light Co. v. Lincoln[70] sus-

[66] (1919) 250 U. S. 241, 39 Sup. Ct. 450, footnote 38, *supra*.
[67] (1919) 249 U. S. 416, 39 Sup. Ct. 343.
[68] (1919) 249 U. S. 422, 39 Sup. Ct. 345.
[69] (1918) 248 U. S. 30, 39 Sup. Ct. 13.
[70] (1919) 250 U. S. 256, 39 Sup. Ct. 454.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tained the findings of the master that the rates fixed were not confiscatory, because on all the evidence and having regard to the entire period under investigation and in the absence of a practical test the Supreme Court was unable to say that he was wrong. The evidence is not set forth, so that the approval of the master's findings does not shed new light on the law of rate regulation. Mr. Justice Pitney, however, stated specifically that the court disapproved of the "finding that no rate yielding as much as 6 per cent upon the invested capital could be regarded as confiscatory," since 8 per cent was the lowest rate sought and generally obtained in the community for money invested in banking and mercantile enterprises, and the "legal rate" in the state was 7 per cent. "Complainant had not such a monopoly nor were its profits 'virtually guaranteed' in such a sense as to permit the public authorities to restrict it to a return of 6 per cent upon its invested capital." It is to be noted that the reference is to "invested capital" and not to the present "fair value" of the plant. The opinion therefore does not show that the Supreme Court is disposed to deny that 6 per cent is a "fair return on fair value."

In sustaining the dismissal of the bill, the Supreme Court was careful to order it modified so as to leave the complainant a chance to try again if later operations brought forth different results, though Mr. Justice Pitney observed that "perhaps it would go without saying." This shows plainly enough that a decree holding rates not confiscatory is not *res adjudicata* as to the future. After remarking that it is common knowledge that the cost of labor and supplies has greatly advanced, Mr. Justice Pitney added: "And it is equally well known that annual returns upon capital and enterprise the world over have materially increased, so that what would have been a proper rate of return for capital invested in gas plants and similar public utilities a few years ago furnishes no safe criterion for the present or for the future." Here are hints of little less importance than explicit adjudications.

What Mr. Justice Clarke in dissenting called "the novel doctrine of the Denver Union Water Company Case" was reaffirmed by a divided court in Detroit United Ry. Co. v. Detroit.[71] A street railway company, whose franchise on certain streets had expired and which concededly might have been forbidden to operate and required to remove its tracks, brought a bill to enjoin the city from enforcing an ordinance regulating its fares. It alleged that the enforcement

[71] (1919) 248 U. S. 429, 39 Sup. Ct. 151. See 19 *Columbia Law Review* 153, 32 *Harvard Law Review* 736, and 17 *Michigan Law Review* 347.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

of the ordinance would result in a deficit in operations, and under the pleadings this allegation was taken as confessed by the city. The majority held, as in the Denver case,[72] that the ordinance in effect amounted to a grant to the road to continue operations and that for this public service the company was entitled to a fair return on its investment. Mr. Justice Day stated that the city "elected to require maintenance of the public service," but the ordinance as quoted on the margin contains no such requirement, but merely forbids those operating street railroads to charge more than the designated fares. Plainly the so-called requirement is a matter of inference from the imposition of rates plus the failure to forbid operations. For the minority, consisting of himself and Justices Holmes and Brandeis, Mr. Justice Clarke observed: "The utmost that can be claimed for the ordinance is that it suffers the company to use the streets which it could not use at all without it—for the company to use them in any other way than as thus permitted would be unlawful. Yet this mere offer of a naked privilege, in terms revocable at will, is held to give a constitutional right and at the same time to so violate that right as to render the ordinance invalid. I cannot bring myself to understand how, except by sheer assertion of power, even the apparent justice of the result which it is hoped thus to obtain can be made the basis for creating a constitutional right where no right whatever existed before the passing of this rejected ordinance."

The happy state of being without a franchise was sought by the complainant in Columbus Ry. Power & Light Co. v. Columbus,[73] but not attained. The company sought to enjoin the city from requiring it to continue service at the rates stipulated in its franchise which still had some years to run. Its unaccepted surrender of its franchise was held not to relieve it from the obligation of its contract to serve at the designated rates of fare, and the fact that such service would be unremunerative, which was confessed by the motion to dismiss, was held no excuse. The contention that the franchises were merely permissive was rejected by the court. The increase of costs due to an arbitral award of the war labor board raising the wages of employees was declared not to be a direct intervention of the government which excused performance by rendering it impossible. Such comfort as owners of street railroad securities can wrench from the case must be

[72] (1918) 246 U. S. 178, 13 *American Political Science Review* 66.

[73] (1919) 249 U. S. 399, 39 Sup. Ct. 349. This case is followed in Burr v. Columbus, (1919) 249 U. S. 415, 39 Sup. Ct. 354. See 19 *Columbia Law Review* 241.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

discovered in the remarks in the opinion that "there is no showing that the contracts have become impossible of performance" or "any allegation establishing the fact that taking the whole term together the contracts will necessarily be unprofitable." But such hopes as these expressions may raise must be somewhat dimmed by the reference to "the principle, frequently declared in decisions of this court, that if a party charge himself with an obligation possible to be performed, he must abide by it unless performance is rendered impossible by the act of God, the law, or the other party." To this was added: "Unforeseen difficulties will not excuse performance. Where the parties have made no provision for a dispensation, the terms of the contract must prevail."[74]

(To be concluded)

[74] In Public Utility Commissioners v. Manilla Electric R. & L. Co., (1919) 249 U. S. 262, 39 Sup. Ct. 272, the court found no constitutional question in a complaint by a public utilities commission that the territorial court had construed an ordinance requiring free transportation of members of the police department wearing official badges as not applicable to detectives with such badges concealed.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

LEGISLATIVE NOTES AND REVIEWS

EDITED BY CHARLES KETTLEBOROUGH

Director of the Indiana Legislative Reference Bureau

State Administrative Reorganization in Idaho and Nebraska. In the two states of Idaho and Nebraska a thorough reorganization of state administration has been undertaken by legislation of the present year. In both cases the general lines of the Illinois civil administrative code of 1917 have been followed. Existing state offices, boards and commissions created by statute have been abolished; and a new system of executive departments has been authorized, under the control of the governor. The elective state officers established by the state constitutions have not been disturbed.

Idaho Reorganization. In Idaho there has been for some years much dissatisfaction with state officials and their methods; but the reorganization was not preceded by any extensive investigation or general agitation, and was primarily due to the efforts of Governor Davis. The governor's proposals were formulated in Senate Bill No. 19, which became law on March 31.

This act is designed to vitalize "Article IV, section 5 of the constitution by conferring upon the governor the power and responsibility of conducting the principal departments of the state government." It provides for nine departments: commerce and industry; finance; immigration; labor and statistics; law enforcement; public investment; public welfare; public works; and reclamation. At the head of each department is a commissioner appointed by the governor, and (except those who "under the constitution are appointed for specific terms") removable by him at his discretion. Each commissioner receives a salary of $3600 a year. Some 46 boards, commissions and offices are abolished; but the elective state officers and a number of ex officio boards, provided for in the constitution, and the state board of education are continued.

In some of the departments provision is made for certain subordinate officers, who are also to be appointed by the governor. But these are comparatively few in number; and in the main the organization within

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

each department is under the control of the commissioner. In the department of agriculture, there are provided directors of markets, animal husbandry, and fairs, and an unsalaried board of agricultural advisers; in the department of commerce and industry, an assistant commissioner, directors of banking and insurance, and a manager of state industrial insurance; in the department of law enforcement, a fish and game warden; in the department of public welfare, a public health adviser; in the department of public works, a director of highways; and in the department of reclamation, a director of water resources. Special qualifications are required of some of the department heads and other officers.

Among the duties of the commissioner of finance are to prescribe and require the installation of a uniform system of bookkeeping, accounting and reporting, and to supervise the preparation of a state budget.[1]

Nebraska Civil Administrative Code. In Nebraska no special study of the functioning of the state government was undertaken. The evils of the administrative system were, however, obvious. The people of Nebraska elect to executive offices a governor, lieutenant governor, attorney-general, secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of public lands and buildings, a railway commission of three members and a board of six regents of the state university. These offices can be abolished only by amending the constitution. The constitution expressly prohibits the creation by law of new executive departments. Therefore the constitutional officers, both elective and appointive, must perform all the administrative duties which existed in 1875, when the present constitution was adopted, as well as the functions which have arisen since that time to meet present day conditions. Hence there had developed the following ex officio boards and commissions: charities and corrections, education, banking, insurance, depository bonds, equalization and assessment, educational lands and funds, irrigation, highways and drainage, canvassers, veterinary medicine, registration of nurses, pharmacy, examiners of public accountants, health, dental secretaries, and embalmers; and a voting machine commission.

The governor was ex officio member of twelve of these boards, the attorney-general of eight, the secretary of state of seven, the auditor of seven, the treasurer of five, the commissioner of public lands and

[1] See article by Howard T. Lewis, in the *National Municipal Review*, May, 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

buildings of five, and the superintendent of public instruction of four. Thus a network of distantly related duties hampered the efficiency of each of these officers.

It is possible that an administrative system might be effective where the heads of departments are elected by the people; but when those independent heads are yoked together on many boards a petty warfare among them, each claiming the right of action and each shifting responsibility, is the inevitable result. Prompt action, coöperation, the fixing of responsibility, and a well-defined policy are impossible of attainment. Nebraska, like other states, has suffered from the inherent evils of its administrative machinery. Outgoing executives in their messages have voiced a protest regarding the existing system and recommended that an attempt be made to remedy the patent evils. The demands of the war upon the state government emphasized and called to the attention of the people the inefficiency, wastefulness and impotency of the administrative system in Nebraska. The election of state officers in the fall of 1918 turned on the issue as to whether the state government should be reorganized in order to fix responsibility, eliminate waste and secure efficiency. The vote of the people was therefore an indorsement of the pledge of the Republican party for a better government, and a majority of the members of the legislature were committed to this program.

Immediately after the November election, Governor-elect Samuel R. McKelvie and several leading members of his party began a careful study of the government of Illinois under its civil administrative code, and prepared a tentative bill which was the foundation of Senate File No. 2—the civil administrative code for Nebraska. This followed very closely the principles laid down in the report of the Illinois efficiency and economy committee of 1914. But instead of grouping the administrative functions into nine departments as did Illinois and Idaho, the ex officio and the deputy boards and commissions were consolidated into six; namely, finance, agriculture, trade and commerce, labor, public works, and public welfare.

Opposition in the senate led to the transfer of inspection functions from the department of public welfare to the department of agriculture, and to retaining the board of agriculture but taking from it all duties except those relating to state and county fairs. With these modifications the bill passed the senate by a liberal majority. In the house several amendments were adopted which restored the board of equalization and assessment, making the finance department advisory

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

to it, and left the old board of mediation and investigation intact. With these changes the bill passed the house by more than a three-fifths vote. The bill was then referred to a conference committee in order to insert the new legislation of the session affecting the code. No emergency clause was attached. It therefore did not go into effect until ninety days after April 19, the day on which the governor affixed his signature. A petition for a referendum was circulated; but the secretary of state held this invalid, as the full text of the bill was not attached.

By the code all ex officio boards are abolished, except the board of equalization, and all the deputy boards, commissions and commissioners except the minimum wage commission, the office of the adjutant general and the board of mediation and investigation. The functions exercised by the numerous boards and commissions have been vested in a comparatively simple machinery of government—six departments, each having a secretary appointed by the governor through whom he administers the laws of the state.

Because of the widespread interest in budget matters, the department of finance has perhaps been the subject of more discussion than any of the other departments. Its functions, three in number, are well defined: it standardizes the business methods of the respective departments by prescribing uniformity in bookkeeping, in accounting and in reporting; examines departmental accounts; certifies all expenditures; and charges all vouchers against the amounts appropriated. All agencies which receive money from the state must have their accounts inspected and examined by the secretary of finance. He is also the efficiency agent for the respective departments, being charged with the duty of coördinating their activities, checking needless expenditure and acting as purchasing agent of all office supplies and as state printer. In the second place the secretary gathers data from the various departments and state institutions and prepares a state budget which he submits to the governor biennially, on or before January 1. From the budget of the secretary of finance the governor makes his budget recommendations to the legislature. The third function of the department is its power of supervision over the whole system of state and local taxation. This function is only advisory to the state board of equalization and assessment, but if properly exercised the department may render an important service to the state. It will study the methods of assessment, collection and equalization, observe to what extent the laws on taxation are being obeyed

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

or evaded and prepare a report with recommendations for the improvement of the system of taxation. Centralized supervision over township, city, county and state revenue officers is made possible under the code. The department of finance will not only examine accounts but will also formulate a uniform system of auditing and accounting of the receipts and expenditures of public funds. The part of the code dealing with the finance department presents distinctively new legislation which is in harmony with approved principles of administrative progress.

The department of agriculture takes over all powers and duties of the live stock sanitary board; game and fish warden; food, drug, dairy, oil and hotel commissions; board of conservation and public welfare; and of the state board of agriculture, except the management of state and county fairs. The division of markets and marketing is a new function. Through it will be enforced the anti-discrimination and other laws relating to marketing of farm products.

The department of trade and commerce is invested with the administrative functions of the state banking board, the state fire inspector, the state insurance board and the blue sky division of the state railway commission. It compiles and publishes statistical information concerning the manufacturing industries and the commerce of the state.

The department of labor consolidates the duties of the compensation commissioner (involving the administration of the employers' liability laws), and of the deputy labor commissioner who enforced the laws relating to employment agencies and regulations, child labor, health and safety, and gathered statistical information upon labor conditions. The minimum wage commission and the board of mediation and investigation, included under the department of labor in the original bill, were left as independent administrative agencies in the law as passed.

The department of public welfare assumes the functions of the state board of health, the child welfare commission, the board of pardons and paroles, and takes over from the live stock sanitary board the supervision of veterinary medicine. For administrative purposes the functions of the department are grouped into (1) health, which deals with contagious and communicable diseases and sanitation, (2) vital statistics, (3) maternity homes, (4) child welfare, (5) charities and corrections, (6) pardons and paroles, and (7) examining boards of physicians, dentists, embalmers and the like. Vital statistics are to be collected by registrars who are appointed by the secretary of the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

department. They hold office during the pleasure of the secretary and are directly responsible to him.

The department of public works effects fewer combinations than any of the other five. The only powers and duties transferred to it are those of the board of irrigation, highways and drainage, and from the office of the secretary of state the licensing of automobiles. The functions thus transferred are grouped as follows: highways, bridges, irrigation, drainage, water power and automobile licenses. All are under the immediate direction of the secretary except drainage. The law contemplates that the whole state shall be divided into drainage districts. At the head of each shall be a superintendent appointed by the secretary of the department and hold office during his pleasure.

The new code bill has provoked much criticism. In the first place the length of the bill is attacked. Both Illinois and Idaho combined in a short bill of approximately thirty pages the entire reform of consolidation. The Nebraska bill contains 433 pages, although that portion of the law which consolidates the various boards into six departments and defines the duties and powers of each takes up no more space than the code bills of Illinois and Idaho. The difference in length is due to the provision in the constitution of Nebraska that: "No law shall be amended unless the new act contain the section or sections so amended. . . . ." The framers of the law held that a change in the administrative machinery was amending the laws involved and that those laws had to be included under the respective new titles of departments created. A second reason was that of policy. The reorganization of the administrative machinery offered an excellent opportunity for bringing all the laws on the same subject together under each department, and of codifying them and rendering them less ambiguous.

In addition to its unwieldiness, it may be noted further that the code bill does not effect a complete reorganization. All offices created by the constitution remain untouched, except in so far as their ex officio statutory duties are transferred to the new departments. They include, besides the usual elective state officers, the state railway commission, the board of regents of the state university, and the board of commissioners of state institutions, the last created by constitutional amendment in 1913. Several statutory boards have also been allowed to remain—the board of equalization and assessment, the minimum wage commission (provided for in 1915, but not appointed) and the board of mediation and investigation. The adjutant general is not

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

included in the reorganization, owing to an attempt to replace this office by a state constabulary, which was abandoned.

In some respects, too, the grouping of functions in the new departments is open to question. The department of agriculture takes over the inspection of foods, drugs, dairies, bakeries, hotels and inns, and the regulation of warehouses, commission merchants and weights and measures. At least some of these seem to belong more appropriately in the department of public welfare or the department of trade and commerce.

The defects of the measure should not obscure the real merits of the reconstruction accomplished by the code. For the thirty or more multiple headed boards and commissions, overlapping in their powers, lacking in coöperation, and wanting in dispatch and responsibility, were substituted six departments. Each department has a secretary who is appointed, for a period of two years, by the governor with the consent of the senate, and assistants who are appointed by the governor alone. Each secretary receives a salary of five thousand dollars annually. The number of the office force for each department, their duties and their salaries are determined by the governor. Legally the powers and duties of the departments are vested in the governor, but actually they will be exercised by the secretaries of the departments, who no doubt will have control over the personnel and the organization of the respective offices. Each secretary will then be placed in a position of great power and responsibility. In the final analysis, however, the governor is responsible to the voters for the manner in which the secretaries administer the duties of their office.

The reorganization fixes responsibility in the chief executive by vesting in him real power. He can no longer shift responsibility on other shoulders. Having the power to select the men through whom he is to administer the laws, and having the power to supervise them, the governor must take all the blame if the laws are not properly enforced. For the first time an effort is made to coördinate the administrative functions and to integrate the work of the various departments. Consolidation has therefore simplified the government and paved the way for efficient control. Notwithstanding the defects of the present law, which can be remedied by future legislation, it is a distinctive step toward the modern idea of administration.

JOHN P. SENNING.

University of Nebraska.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Administrative Reorganization in Indiana. During the past four years there has been a marked tendency in Indiana toward the administrative reorganization of the state government in so far as such a reorganization is constitutionally possible, and the present administration has succeeded in effecting certain changes in state departments which are designed to secure more efficient and scientific service. The chief purposes of the present program were to provide for a shorter ballot by changing certain offices from an elective to an appointive basis, to reorganize certain allied bureaus by consolidating them into larger departments, and by separating unrelated departments which are now consolidated.

In providing for the consolidation of allied departments of the state government, the General Assembly of 1919 enacted laws providing for the creation of a conservation commission, a live stock sanitary board, a legislative reference bureau and an oil inspection department. The conservation commission, which began operation on April 1, took over the work formerly done by the departments of geology, entomology, forestry, lands and waters, fish and game and public parks. The commission consists of 4 members appointed by the governor. The executive head of the department is a director and the department is divided into 5 divisions at the head of each of which is a chief. These chiefs are designated respectively as the state geologist, the state entomologist, the state forester, the superintendent of lands and waters and the superintendent of fisheries and game.

The legislative reference bureau is authorized and required to take over the work formerly done by the bureau of legislative information and the bureau of statistics. The work of editing, compiling and distributing the *Indiana Year Book*, which contains all official state reports, was likewise vested in the bureau as well as authority to enter into a coöperative arrangement with the department of agriculture of the United States government in the collection, recording, interpreting, publishing and disseminating of crop and live stock statistics for Indiana.

The department of oil inspection, which is intrusted with the inspection of all mineral and petroleum oils, gasoline and naphtha used for illuminating or combustive purposes, was consolidated with the office and placed under the supervision of the state food and drug commissioner.

The live stock sanitary board was created to take over the work formerly done by the state veterinarian and the state board of veteri-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

nary examiners. The board consists of 4 members, 2 of whom are veterinarians and 2 practical live stock raisers. The board appoints the state veterinarian and the two veterinary members act as the board of veterinary medical examiners.

In the work of reorganizing, three new departments were created. A separate bank department, a separate insurance department and an employment bureau were established. The bank and insurance departments were formerly connected with the office of the auditor of state and the employment department was originally a part of the office of the state statistician.

Considerable progress was also made towards shortening the ballot. By the provisions of the laws creating new departments, the state geologist and the state statistician were changed from an elective to an appointive basis, and constitutional amendments were proposed to make the clerk of the supreme and appellate courts and the state superintendent of public instruction appointive instead of elective officers as at present.

The effect of these changes will be to place all of the scientific and technical departments of the state government on a merit basis, to reduce materially political considerations in making appointments, and to extend the tenure of appointees indefinitely and insure a continuous, professional policy in carrying out the public work of the state.

C. K.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

NOTES ON MUNICIPAL AFFAIRS

F. W. COKER

Ohio State University

Philadelphia's New Charter. The most important recent city charter revision is that given to Philadelphia by the Pennsylvania legislature in June of this year. The act will go into effect January 1, 1920. It makes fundamental changes in the former organization which has in various ways facilitated notorious abuses suffered by the people of Philadelphia for many decades, and which the political interests have successfully protected against repeated efforts to modify. Success came this year through the concerted action of various civic and business organizations of the city, with the assistance of the Penrose wing of the State Republican organization, which was interested in wresting control of the government of Philadelphia from the wing led by State Senator Vare. Governor Sproul rendered valuable service to the charter supporters in withstanding most of the efforts of the Vare faction to destroy or vitiate the reform proposals; but eliminations or weakening compromises n some instances were necessary in order to save the proposals from defeat. Philadelphia's present sys em of government was established in 1854; the principal change in that system was made in 1885 by the law which separated mayor and council and increased the appointing power of the mayor.

The most significant change effected by the new charter is in the reconstruction of the city legislative body. A peculiarly pernicious feature of the presen' government is the composition of its bicameral legislature—consisting of (1) the select council, of one councilman from each of forty-eight wards, and (2) the common council, also elected by wards, with one councilman for every 4000 names on the list of assessed voter , provided, however, that each ward shall have at least one common councilman. As ward lines have been seldom changed to adapt them to shiftings in population, there has been gross inequality in the distribution of representation, so that under the present system a third of the city's population could elect a majority in both chambers of the city legislature. Under the new system there will be a single

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

council elected on the basis of the eight state senatorial districts of the city, one councilman being chosen for every 20,000 assessed voters. This will provide a council of 21 members in the beginning, in place of the present body of 145. Each councilman is to receive an annual salary of $5000.

Many other changes of importance are made by the new charter. The city solicitor, now an elective officer, is made appointive by the mayor. A new department of welfare is created to include charity, correctional and recreational functions; and the bureau of health is elevated into a separate department. The civil service system is modified by making the commissioners chosen by the council, instead of by the mayor, by reducing the number of eligibles to be submitted to the appointing authority in case of vacancy from four to two, and by prohibiting political activity or contributions on the part of policemen and firemen.

A change which evoked the bitterest opposition of the Vare faction is that which requires the city, after December 31, 1920, to do its own street-cleaning and repairing and waste removal, including the collection of ashes, rubbish and garbage. At present Philadelphia, unique among large cities of the world in this respect, has these functions done by private contract; and Senator Vare advertises himself as the "largest street-cleaning contractor in the world." The Vare faction succeeded in securing a modification of the charter committee's original proposal governing the making of exceptions, in emergencies, to the general rule requiring the city to do this work directly. The original proposal required a three-fourths vote by council and approval by the mayor in order to have such work done by contract. The Vare faction was successful in having a majority substituted for three-quarters as the necessary vote by council in order to make such exception. Although Senator Vare controls a majority of the present council, it is nevertheless expected that under the improved scheme of representation he will no longer be in control, and that, therefore, there will be less danger of having the provision for exceptional arrangement abused.

The fiscal provisions of the charter require the mayor to prepare the budget, allowing the council full freedom in modifying his budget, but requiring the council to base the tax rate upon the budget which it adopts. Provision is made for the establishment of a centralized accounting system; but the proposed sections for a revenue and expense system in place of receipts and disbursements were dropped. A provision prohibiting dual office-holding will end an evil which has for a

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

long time been a vitiating factor in Philadelphia politics. At present twenty-eight members of the city council are holders of other positions in some department of local government.

Proposals that were defeated in committee or in the legislature include those providing for partial representation at large with proportional representation, for the extension of trial board privileges, now enjoyed by policemen and firemen, to all city employees, and for the extension of the merit system to county departments. The partisan system of nomination and election remains, the nonpartisan system being regarded as too radical a device for Philadelphia at this time.

A supplementary bill provides the local district attorney with a detective bureau, thus supplying a safeguard against such inaction on the part of the police detective forces as that which followed the notorious fifth-ward political murders in 1917.

Home Rule and Other Charter Revisions. Important steps in the extension of municipal home rule have been made in Utah, Wisconsin, North Dakota and Missouri. In Utah the legislature has submitted a constitutional amendment, to be voted upon in 1920, according to each city the right to frame and adopt its own charter, to own and operate public utilities, and to apply excess condemnation. In Wisconsin the legislature has passed a proposed constitutional amendment for municipal home rule and another authorizing loans for public utilities beyond the ordinary debt limit; these will have to be passed again by the next legislature before they can be submitted to a popular vote.

The legislature of Wisconsin has also passed an optional city manager law under which any city of this state may establish a city manager system, with wide latitude as to size and nature of the council; and two laws providing for the nonpartisan election of the board of supervisors and county administrative officers of Milwaukee county. The North Dakota legislature has also passed a state-wide permissive city manager law.

The legislature of Missouri has submitted a proposed constitutional amendment to confer upon Kansas City the power to adopt any form of charter, thus releasing that city from the present constitutional restriction requiring, in effect, all cities except St. Louis to maintain the bicameral form of council.

In California, a proposed constitutional amendment has been passed by the legislature, authorizing the submission, to the voters of the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

district concerned, of a proposal for the adoption of a county charter for Alameda County, which would effect a consolidation of the county government and the governments of the now distinct municipalities of the county, including Oakland and Berkeley. Proposed amendments to authorize city-county consolidation in Ohio and in Portland, Ore., were introduced.

The legislature of Illinois has submitted two important amendments to the Chicago charter, one reducing the number of councilmen from seventy to fifty, and the other providing for nonpartisan election of councilmen. Nonpartisan elections were approved and the reduction of councilmen was disapproved by the Chicago voters at the November election.

Among larger cities which have recently adopted the commission-manager form of government are the following: Bristol, Va., Suffolk, Va., Rome, Ga., and McAlester, Okla.

A bill providing for a new charter for Memphis, based closely upon the model charter of the National Municipal League, was defeated in the Tennessee legislature this year by the narrow margin of two votes in one house, after having passed the other house unanimously. The defeat of this bill is explained by its advocates as due largely to the opposition of the utility interests, the charter bill as drafted containing effective provisions for the control of public utilities.

A change in the administrative organization of transit control for New York City has been made by a recent act of the state legislature. In place of the commission of five, controlling both service regulation and transit construction, the new law provides for a separation of these two functions and for a single independent commissioner for each function—a construction commissioner, appointed by the governor, to control rapid transit construction, and a regulating commissioner, also appointed by the governor, to exercise the regulating functions formerly performed by the commission in relation to fares and services.

Minnesota laws have provided for a board of estimate and a department of city planning and for the separation of local from state elections in Minneapolis. A Michigan act, subject to local referendum, provides for a unified criminal court in Detroit.

Among new charters adopted in the year 1918 the following are the most important: that of Detroit providing for a council of nine elected at large through nonpartisan nomination and election, creating a central department of purchase, and making various administrative changes; and the commission-manager charters adopted in Kalamazoo (with proportional representation), Roanoke, Va., Akron, O., and

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Auburn, N. Y. Important charter amendments were adopted in Milwaukee, abolishing the combined at-large and ward systems for the council and substituting a council of twenty-five elected by wards; in Richmond, Va., effecting some administrative reorganization and centralization and providing for an executive budget; and in San Francisco, abolishing primaries and establishing the preferential system of voting. The charter submitted by the 1918 charter commission in Baltimore, and approved by the voters in the November elections of that year, is the old charter, with changes providing for operation of the merit system beginning January 1, 1920. By readoption of the old charter, the city has obtained large powers of local self-government under the provisions of the 1915 home-rule amendment to the state constitution.

Unionization among Municipal Employees. One of the most significant recent developments in the field of municipal affairs is the sudden and rapid expansion of the movement for unionization of municipal employees. Many city employees are members of the international brotherhoods or unions of electrical workers, stationary firemen, pavers, teamsters and chauffeurs, and other labor organizations, the majority of whose membership comes from employees of private employers. But unionization of city employees in these lines has extended so far in some cities that separate local unions exist for various groups of public employees in such cities. In some cities there are local unions of municipal employees generally, such as the "city employees' unions" in Concord, N. H., Taunton, Mass., Worcester, Mass., and Spokane, Wash.

Efforts were initiated late in September by radical leaders among the municipal employees of New York City to combine all existing unions in that city into one central union affiliated with the American Federation of Labor, and also to organize all employees not yet unionized. The more radical efforts in New York City seem to be in abeyance, following the threats by Mayor Hylan against radical union activities and repudiation of the radical proposals by leaders of several of the stronger existing unions of that city. The Civic Forum, an old organization of city employees of New York City, and the recently formed Municipal and County Employees' Association of the City of New York, containing representatives of about thirty city and county departments and bureaus, are both on record as opposed to affiliation of city employees with outside organized labor.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

More notable, perhaps, than the foregoing examples are the instances of unions formed among workers in peculiarly public vocations. Local branches of the National Federation of Teachers, affiliated with the American Federation of Labor since 1916, comprise municipal employees in cities where the public schools are administered as a department of the city government. The International Association of Fire Fighters obtained a charter from the American Federation of Labor in 1918 and now has locals in many important cities. The American Federation of Labor at its June meeting this year sanctioned the granting of charters to local policemen's unions, and these have now been organized in over thirty cities in all parts of the country.

The formation of policemen's and firemen's unions has created for the governing authorities of some cities a problem of peculiar difficulty, in reference to the question of the strike and affiliation with outside bodies of organized labor. Some policemen's and firemen's unions have "no-strike" clauses in their constitutions, or have passed resolutions renouncing the strike as a weapon for their use. On the other hand, brief strikes by organized policemen or firemen have occurred at various places during recent months and have achieved results in the way of betterment of wages and conditions. The issue between the police and the governing authorities, with reference to affiliation and the strike, has been especially conspicuous in Boston and the District of Columbia. In the latter, Commissioner Brownlow, in explaining the unequivocal opposition on the part of the District Commissioners to membership of the Washington policemen in any outside organization, stated the commissioners' position in part as follows:

The commissioners "approve heartily of the principle of collective bargaining, and they welcome members of the police force for purposes of collective representation, mutual support and organized effort to increase their salaries or improve their working conditions.

"They must, however, withhold their consent from any project to connect such an organization of members of the police department with any other labor organization.

"The fact that the policemen's union is bound by a 'no-strike' provision is an earnest of the intention of its members not to resort to a strike as a weapon of compelling its demands, but if it be affiliated with other organizations which do contemplate the use of a strike in an emergency every member of the police force who is a member of the union would be liable to the charge, however falsely made, of favorit-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ism in the performance of duty in the event of industrial trouble involving the organization with which it is affiliated."

There is some indication that the authorities in Boston and in the District of Columbia are in the way of repeating the policy pursued by a few English cities in dealing with strikes of municipal employees some years ago: namely, granting many of the demands that formed the occasion for the agitation, and at the same time severely penalizing the men whose agitation was necessary to awaken the authorities and the community to the grievances which made their demands reasonable or inevitable. Liberal opinion in the country, sympathetic with movements for the elevation of the position of wage earners generally and appreciative of the reality of the grievances which have aroused the recent movements among policemen, seems to be tending towards the conclusion that although the right of organization and collective bargaining should be freely accorded to policemen as well as to other public employees, the right to strike or to affiliate with outside organized labor should not be possessed by policemen, who, as exercisers of the force of the government of the community, cannot, with security to the community, act except under the exclusive direction of the chosen representatives of the community.

A survey of pending and threatened strikes throughout the United States, made about the middle of September, reveals that strikes of policemen are under way in Boston and in Tulsa, Okla., and that strikes are threatened by policemen in Portland, Ore., firemen in Holyoke, Mass., streetcleaners, garbage men, technical men and other municipal employees in New York City, water plant employees in St. Louis, and park employees in Boston.

City Elections. During the present year important primaries or elections have been held in Chicago, St. Louis, Milwaukee, Seattle, Grand Rapids, East St. Louis, Detroit, Baltimore and Philadelphia. The Chicago election in the spring has been much discussed and explained. Mayor Thompson, vigorously opposed by all the well-known newspapers of Chicago, overwhelmingly defeated Professor Merriam and Judge Olson in the Republican primaries, and in the election was victorious by a plurality of 18,000 votes over Mr. Sweitzer, Democratic organization candidate, and State's Attorney Hoyne, who ran as an independent. The notable feature of the St. Louis aldermanic election in April was the overwhelming defeat, in the race for president of the board, of the Democratic candidate, who had also the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

support of independent elements, by the candidate supported by the Republican organization and street railway interests. In the Milwaukee judicial and school board election in April the anti-Socialist fusion candidates won a sweeping victory over the Socialist candidates. In Seattle there was a hotly contested election for the three vacancies in the city council; organized labor made a vigorous fight for their candidates, the conservative and "reform" elements combining in support of the three incumbents, who defeated the labor contestants by majorities of from 6000 to 8000 votes. In Grand Rapids the three candidates supported by the Citizens' League in the election of city commissioners were successful over the candidates put forward by the political organization. Likewise in the East St. Louis election the reform ticket defeated the organization candidates.

In Detroit on April 7 the voters defeated a proposal to purchase the street railway system, apparently on the grounds that the proposed price was excessive and that new systems of local transit would soon have to be substituted for the existing electric surface system. In the Baltimore primaries in September Mayor Preston was defeated in his race for renomination as the Democratic candidate. At the Philadelphia primaries held September 16, Congressman J. Hampton Moore, running in the mayoralty contest as an independent Republican with the backing of Senator Penrose, defeated by a very narrow margin Judge John M. Patterson, who had the support of Senator Vare, leader of the dominant local faction of the Republican party. At the election in November, Moore was elected by a large majority; Mayors Davis of Cleveland and Rolph of San Francisco were reëlected; and the Republicans elected important officials in New York City.

Among important city elections during the year 1918 were those of Seattle, Milwaukee and Detroit. In Seattle, Mr. Ole Hanson in the primaries defeated James E. Bradford, supported by organized labor, and Mayor Gill; in the election Hanson defeated Bradford by a close vote, questions of pacifism and I. W. W. movements figuring conspicuously in the contest. In the Milwaukee election the Socialist Mayor Hoan was reelected by a narrow majority. In Detroit, under the first application of the nonpartisan system established by the new charter, the progressive, pro-charter groups defeated the "liberal" and old-time political groups in both the primary and the election, ex-police commissioner Couzens being elected mayor along with nine councilmen supported by those responsible for the new charter.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Publications. The *City Manager Bulletin* is the name of a new monthly published by the City Managers' Association and sent to active and associate members of the association. Associate membership in this organization is now open not only to city managers but to others interested in the work of the organization. Harrison Gray Otis, Secretary of the Association, is editor of the *Bulletin*, the first issue of which appeared in February.

Equity, a quarterly which was established about twenty years ago by Dr. Charles F. Taylor of Philadelphia, and which under his able editorship has been an invaluable source of information in reference to newer forms of popular control, particularly the initiative, referendum, recall, and proportional representation, has ceased publication, having consolidated with the *National Municipal Review* in the August issue of the latter magazine.

The Kalamazoo *Municipal Bulletin* and the Dayton *Municipal Review* are two of the most recently established municipal journals. The latter is a monthly published under the control of a staff representative of the municipal employees generally and is intended to be self-supporting.

Beginning with the number for May, 1919, the *National Municipal Review* has been issued monthly, with Richard S. Childs, Clinton Rogers Woodruff and C. C. Williamson as joint editors.

The second annual report of the Wisconsin tax commission on *Statistics of Municipal Finance* contains data relating to the receipts and disbursements of the state, counties, cities, towns and villages.

A useful study of the *Sources of Municipal Revenue in Maine*, by O. C. Hormell, has been published as Bowdoin College Bulletin No. 76.

The International Union of Cities, with headquarters at Brussels, is taking up again the work planned at the International Congress of Cities held at Ghent in 1913. This will include the collection and analysis of municipal publications on subjects of general interest, and preparations for another international congress to be held probably in 1921. A Reconstruction Exposition was opened at Brussels on September 15, in connection with which were held, on September 26–28, meetings of the Union of Belgian Cities and Towns and the International Town Planning and Garden Cities Association.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

FOREIGN GOVERNMENTS AND POLITICS

EDITED BY FREDERIC A. OGG

University of Wisconsin

Constitutional Development in Czechoslovakia. The provisional government of the Czechoslovak Republic at Prague was established by virtue of the law of November 13, 1918, on the provisional constitution.[1] Its antecedents may be of some interest to students of constitutional history. The Czechoslovak statesmen take the ground that the ancient Bohemian state never ceased to exist, as is proved by the thrice-made offer of Francis Joseph, as well as the similar offer of ex-Emperor Charles, to be crowned king of Bohemia. They also point out that the Czech nation never recognized the constitution of 1867 which made possible the Austro-Hungarian *Ausgleich*. Its deputies did not enter the Austrian Parliament until 1879, and then only with a reservation that they did so without sacrificing their state rights.[2] This was officially recognized by Francis Joseph in his speech from the throne at the time. The deputies which the Czechs sent to Vienna since that time were looked upon by the nation as the only visible remnant of their former government.

The national council at Prague, an informal, extra-legal committee which defended the nation at large, and was its chief organ of propaganda, was dissolved during the war. But on July 13, 1918, it was reorganized under the presidency of Dr. Kramář. It consisted of some forty members, two of whom (in secret) were Slovaks. The Czech political parties were represented according to their showing in the parliamentary election of 1911. The Slovaks, when possible without danger to their persons, were to be allotted seats according to their numbers in the census of 1910.[3] It was this institution which

[1] Sbírka Zákonů a nařízeni státu československého. Ročník 1918: Čislo 37.

[2] See Srb, Šedesat let, II 142–144. The best monographs on Czech constitutional history are: Kalousek, České státní právo, Prague 1892: Baxa, K dějinám veřejného prava, Prague, 1906, and Kadlec (ed.) Drobne spisy Bohuše svob. pana Riegra, Vol. II, Prague, 1915. For a more recent explanation see Masaryk, "Czechoslovak Nation," *Nation* (N. Y.), Vol. 107, pp. 386–388.

[3] Československá Samostatnost (Paris) III, No. 29, 31 and A. Meissner, "Notre Constitution Provisoire" in *Le Rapport Quotidien*, I, No. 80.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

assumed charge in Czechoslovakia when the revolution broke out on October 28, 1918.

Meanwhile the national council which Masaryk formed at Paris with the assistance of Beneš and Štefaník had been recognized as a *de facto* government and the Czechoslovaks as an allied and belligerent nation.[4] By virtue of this measure of recognition, the Paris national council formed a provisional government on October 14, 1918, with Masaryk as its president, premier, and minister of finance, Beneš as its minister of foreign affairs and of the interior, Štefaník as its minister of war. When the revolution succeeded, the national council at Prague and the provisional government at Paris sent representatives to Geneva, Switzerland, where a new cabinet was agreed upon. The national council was intrusted with the work preparatory to the calling of the National Assembly which should formally elect Masaryk president and the ministry agreed upon in Switzerland.

Accordingly, at its first meeting on November 14, 1918, the national assembly formally elected the president and the cabinet. The national assembly was an expansion (to 256 members) of the national council at Prague, and was selected according to the same quota by the executive committees of the political parties. Six of the deputies were women. Germans and other non-Czechoslovaks were not included, because there were as yet no definite frontiers and because the nation desired to create its own state. It may be said, however, that the Germans were consulted from time to time on various questions by the committees of the national assembly.

The provisional constitution is an interesting document. It bestows upon the national assembly the legislative power and "the power to supervise the executive until the time when a constitutionally elected assembly shall meet."[5] A quorum for the transaction of ordinary business in that body consists of one-third of its total membership. A two-thirds majority, with a quorum consisting of two-thirds of its entire membership, is necessary "to change the provisional constitution, the law on the universal rights of citizens, the law on the immunity of members of the national assembly, to elect the president, or to declare war."

This makes the national assembly, which, as constituted, was really named by the party leaders in the executive committees of the respective

[4] See especially the British Declaration of August 9, 1918, and the American Declaration of September 2, 1918.

[5] Sbírka Zákonů, etc. Roč. 1918: 374 and ff.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

parties (who retain the power to recall their nominees), the supreme organ of the government by virtue of the fact that it has the legislative power and in effect also the executive power.

The president is the head of the republic and is elected, as has been mentioned, by a two-thirds vote. His term of office expires when a new head is elected according to the definitive constitution. During his sojourn abroad, or if the office becomes vacated for any reason, the ministry—which is chosen by the national assembly—carries on the work of the president for the time being.

The president, who cannot be prosecuted in the courts, represents the state in foreign affairs, is commander-in-chief of the army, receives foreign envoys, declares war by virtue of the decision of the national assembly, submits the terms of peace for its approval, appoints army officers, state officials, and judges above the sixth class, pardons or reduces sentences, and may direct that certain cases be not tried or that proceedings, even after they are initiated, be stopped. The countersignatures of the premier and of the cabinet minister concerned are necessary along with that of the president for "ministerial acts which the president executes." Moreover, the president may "return a law for reconsideration within eight days of its passage by the national assembly." If this body refuses to alter it, "the law must be promulgated."

Executive power belongs to a ministry of seventeen, whose members are elected by the national assembly and are responsible to it alone. They may be recalled by a majority vote of lack of confidence, a quorum for this purpose consisting of one-half of the membership. No one can become a minister who is a director in a corporation doing quasi-public business. The ministry makes its decisions in meetings where at least ten ministers must be present, including the premier or vice-premier. In joint meetings with the national assembly, the ministry decides on government proposals, on all matters of political importance, and on the nomination of officials other than those already mentioned.

All laws must be signed by the president of the republic, by the premier, and by the cabinet minister whose portfolio is concerned. Ordinances are signed by the premier and at least nine ministers.

Thus the provisional constitution makes the president a figurehead and gives the national assembly the sovereign power. It had been in use only a few months before it became the subject of a great deal of discussion, which centered about two phrases: "a strong president

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and a weak republic" and "a weak president and a strong republic." The more conservative elements rallied around the former, the more radical around the latter. The Political Science Society of Czechoslovakia, in formal session, sharply criticized the instrument.

Friends of the provisional constitution were gradually driven to argue that it was not known, when the constitution was drafted, at what precise time President Masaryk would return to Prague; and they claimed that to demand a strong president was a sign of reaction.

Opponents of the provisional constitution argued that it "took over something from the American Constitution, other things from the French, and left the door open for the Swiss type of a republic without a president." They made much of the irony of the situation. The nation trusted Masaryk to the last detail during the war and followed his course around the world with the greatest concern; but after the war it made the man who was most responsible for its independence "a powerless figure."[6]

That the provisional constitution was defective was soon proved by the course of events. Many questions arose, among them: Has the president, in general, the right to enter into relations with the national assembly through the offices of the ministry or directly, without giving it notice? Has he the right of legislative initiative? What rights has he over and against the ministry? What results if a minister resigns, or a political party desires to have its followers—who happen to be members of the ministry—resign from that body, or if a minister or a member of a party decides to change parties or form new ones?

It is significant that until the present, the president has not addressed the national assembly with a view to initiative legislative action.[7] Serious considerations arose, however, which urged that the president's position be clarified. The Kramář coalition ministry had the virtues and defects of every coalition. It was called on to guide the nation through a great crisis. But in view of future events some of the ministers insisted on "making" politics as though they were in a political campaign. There were threats and counter-threats. While the government managed to carry through the national assembly a great deal of legislation which revolutionized the old political, economic and social

[6] See especially Baxa, Kotasce právního postavení presidenta československé republiky, in *Národní Listy*, May 20, 1919, No. 118 and his article in *Česky Revue*. He attacks the provisional constitution. Hobza, Silný president či silná republika, in *Česká Stra*ˇ, May 20, 1919, defends it.

[7] Meissner, *Le Rapport Quotidien*, I, no. 80.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

order, it was unable to proceed to vigorous executive action. Because of this, the bourgeois element, led by the National Democrats (Dr. Kramář's party), accused the ministry of giving the country a weak government and of making concessions freely to the Socialists. The latter hurled back the charge that the National Democrats were reactionary and desired to enslave the nation to the capitalists.[8]

It became evident that the days of the first ministry were numbered. Ministers, if not an entire ministry, would have to be named. One of the parties, the National Democrats, wished to go into the opposition. What was to be done? Would the national assembly try to cope with the situation or would it give more power to the president? If it chose the latter course, it would still retain its power to cause ministries to fall. Adopting the latter plan, the national assembly passed a law on May 23, 1919, by which it amended the provisional constitution to the effect that the president should have the right to determine the number of ministers and to name them.[9] A few days later, but before the law could go into effect, two National Democrats offered their resignations. They were not accepted by the president.

The elections held in the communes[10] in June gave a more recent basis on which to ascertain the popular will. They resulted in a victory for the Socialists in the cities and the Agrarians in the country. The Socialists (Social Democrats and National Socialists) received a comparative majority of the votes cast. As a result, in July, the second coalition ministry of the Czechoslovak Republic was formed with Vlastimil Tusar, a Social Democrat, at its head.

ROBERT J. KERNER.

University of Missouri.

Danish Parliamentary Elections of 1918. Denmark enacted new election laws May 10, 1915. The first election of members of the lower house of the national legislature held under them, April 22, 1918, is of special interest; for the laws attempt in a unique way to remedy the inequalities in representation common under the single-member district plan. Friends of the new law are pleased with the results and characterize this as the "first proportional election ever

[8] See the *Národní Listy* (National Democrat) and *Právo Lidu* (Social Democrat) from January to June, 1919.

[9] See Sbírka Zákonů, etc. Roč. 1918, under date.

[10] All men and women over twenty-one years of age voted. See Rád voledoní do obcí republiky československé. (Prague, 1919.)

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

held in one-man districts." This statement sounds paradoxical and the plan itself was regarded by its opponents as absurd and impracticable.

Under the old law the *Folketing*, or lower house, consisted of 114 members, all of whom were elected from single-member districts for a three-year term. The present *Folketing* is elected every four years and consists of 140 members. Of these, 24 are allotted to the capital city and are elected according to the list system of proportional representation, d'Hondt's method of distribution being employed. The remaining 116 members are elected from the Islands and from Jutland peninsula, the two parts into which the kingdom, outside of Copenhagen and Fredriksberg, is divided for certain purposes. In 1916 Copenhagen had a population of 605,772, the Islands of 1,161,163, and Jutland of 1,253,809. The Islands, including the Faröe Islands as a special district, are divided into 42 single-member districts and Jutland into 51. The election is a contest among candidates for these 93 district seats. The high man in each district is declared elected, and then 23 additional seats are distributed among the less successful political parties so as to bring about as proportional a party representation as possible.

The following table gives the results of the list election in Copenhagen and Fredriksberg and of the district elections throughout the rest of the kingdom:

PARTY	COPENHAGEN		THE ISLANDS		JUTLAND	
	Votes cast	Candidates elected	Votes cast	Candidates elected	Votes cast	Candidates elected
New Right	3,322	0	1,002	0	440	0
Conservative	45,804	6	68,045	2	54,016	0
Left	2,689	0	97,886	7	171,304	35
Radical Left	39,682	5	97,256	19	54,599	2
Social democrats	96,368	12	78,114	14	88,314	13
Outside of parties	18,837	1			3,622	1
Total	206,702	24	342,303	42	372,295	51

From this table it is seen that in the Islands the Conservative People's party cast 68,045 votes and elected only two candidates. The Left with 97,806 votes elected seven, while the Radical Left with 97,256 managed to elect 19. In Jutland the Conservatives fared still worse. With 54,016 votes they elected none, but the Radical Left

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

with 54,599 elected two and the Left with 171,304 elected 35. Advocates of proportional representation are continually calling our attention to such instances of disproportionate party representation wherever the single-member district plan is used.

But under the new Danish law 116 out of 262 candidates were declared elected on the basis of the vote cast in the 93 districts, instead of 93 as under the single-member district plan. In the first distribution of additional seats, nine are allotted by law to the Islands and 11 to Jutland. This gives the Islands 51 seats and Jutland 63. The New Right secured no district seat and is therefore, under the law, left out of account. Neither does the independent vote figure in the distribution of additional seats. From the tabulated results it is evident that the Radical Left and the Social Democrats had already elected more than their proportional share of the 51 seats to which the Islands so far are entitled. For this reason the law gives them no more. The Conservatives with only two successful candidates and the Left with seven had not elected their proportional share and under the provisions of the law they were given the nine additional seats. Of the 18 seats to which these two parties were now entitled, seven would go to the Conservatives and 11 to the Left if they were apportioned according to their relative voting strength. This result was actually secured by giving the Conservatives five and the Left four of the nine additional seats.

In Jutland the Left was the only party that elected more than its proportional share of the 63 seats of that part of the kingdom. The Conservatives, Radical Left, and Social Democrats together elected 15 candidates and were entitled to the 11 additional seats. This made a total of 26 seats to be divided among them. Divide their total vote (see table above) by 26 and the electoral quotient obtained is 7575. Divide each party's vote by this electoral quotient and there are seven for the Conservatives, seven for the Radical Left and 12 for the Social Democrats. But the Social Democrats had already elected 13, so they must be left out of account and the 11 seats go to the other two parties. These two parties together had elected two candidates, which added to the 11 makes 13. Thirteen seats, therefore, were to be apportioned among them according to their numerical voting strength. On this basis the Conservatives were entitled to six and the Radical Left to seven. Of the 11 additional seats six were given to the Conservatives and five to the Radical Left which had elected two district members.

So far the Conservatives had secured 19 seats, the Left 46, the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Radical Left 31, the Social Democrats 39, and independent candidates two seats, making a total of 137. The law provides for three more additional seats, one for the Islands and two for Jutland. Copenhagen does not share in this distribution, but its party votes are counted in with those of the rest of the kingdom in determining their allotment, thus bringing about a closer approximation to a proportional party representation than would be the case if Copenhagen's vote were disregarded.

The total number of votes cast by the four parties that are considered was 898,841, which divided by 140, the number of seats in the *Folketing*, gives a quotient of 6421. By dividing each of the party votes by this electoral quotient, it is found that the Left and the Radical Left had already secured more than their proportional share of the *Folketing's* membership. Twenty-four of the 61 remaining seats would, according to relative numerical strength, go to the Conservatives and 37 to the Social Democrats. But the latter party had already secured 39, hence all three additional seats go to the Conservative party.

All additional seats are given party candidates on the basis of the election returns and not through any party action. The Islands are divided into ten counties and each county, or *amt*, constitutes an important unit in the actual distribution of seats among the party candidates. Of the ten additional seats which the law allots to the Islands the Conservatives secured six and the party of the Left secured four by the process which has just been described. The total party vote of the Islands (excluding the Faröe Islands) divided by 51 gives a quotient of 6712. This electoral quotient is subtracted from the number of votes cast in each district for the party whose candidate was elected and the remainder is classed with the unrepresented minorities within the county. The number of unrepresented party voters in each county is then divided by the electoral quotient and the six Conservative seats go to the Conservative candidates in the different counties in the order of the size of this party's decimal fractions. Likewise the four additional seats to which the Left is entitled go to the counties with the largest Left decimal fractions.

In Jutland the eight Conservative and the five Radical Left additional seats are distributed among the candidates of these two parties in the ten Jutland counties in like manner.

The distribution of the 23 additional seats has been described on the basis of the returns of the regular election assuming the election to be

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

valid in all election districts. As a matter of fact the validity of the election in two districts of one of the Island counties was challenged and a new election was ordered in one of these districts and held July 23. At this election the Radical Left candidate was elected by a narrow margin over the Left candidate who had been declared elected at the regular election. The results of this election had then to be substituted for those of the previous election and the additional seats of the Island counties redistributed. The difference, however, did not prove material in this case. The parties retained the same representation as before, the defeated candidate in the second election on the basis of the new returns securing one of the additional seats. But it is evident that significant changes in such special elections will alter the distribution of additional seats among the parties and among candidates within the parties.

One person may be a candidate in several districts within a county, in which case he is credited with the total number of votes cast for him within that county. At the last election 13 of the 23 additional seats went to candidates running in two or more districts. This gives an opportunity to party voters scattered throughout a county to secure a seat, provided, of course, their party is strong enough in some part of the kingdom to carry a single-member district. Wise party leadership and good political organization can secure additional representation in the *Folketing* in this way.

The Conservative People's party had candidates in 91 out of the 93 districts outside of Copenhagen, but there were only 53 different candidates running. This accounts in a large measure for the good fortune of this party in securing 14 of the 23 additional seats and thus bringing its number of representatives very nearly up to its proportional share of the 140.

The Radical Left and the Social Democrats worked in harmony and this reduced their number of candidates. The former had 56 candidates in 64 districts and the latter 59 in 60 districts. The present division of the kingdom outside of Copenhagen into two parts—"*den sorte Streg*" the Danes call this dividing line—permits two parties to divide the territory, more or less openly, so that one party may specialize in Island district seats and Jutland additional seats or *vice versa*.

But even if political parties did not officially coöperate, there is opportunity for party members to secure desired results. Some members of the Left party in certain Jutland districts, for instance, might

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

find it worth while to help the Conservatives secure additional seats if their own party did not need their votes to elect its own district candidates; while in other districts the Conservatives, in order to defeat the "red alliance"—the Radical Left and Social Democrats—might help elect a Left candidate rather than try to win costly additional seats by uniting a scattered Conservative vote. In some of the Island districts the Radical Left would most likely vote with the Social Democrats to insure the defeat of the candidates of the more conservative parties.

Friends of the modified single district plan claim that it secures representation in the *Folketing* very nearly proportionate to numerical party strength. When one takes the entire membership of 140 and apportions it among the parties according to any recognized plan of proportional representation, it is found that the Danish *Folketing* does not fall far short of proportional party representation.

Another advantage claimed for this method of election is that while it secured proportional representation, it retains the better features of the single-member district plan. It localizes the constituencies of the members and gives them a wide geographical distribution. It places each member in an immediate and vital relation to his electors as well as to his party.

It is also maintained that the new plan will fit in better with the Danish parliamentary system than the old. As we have observed, the two-party system does not prevail in Denmark. At the last election there were two candidates in two districts outside of Copenhagen and three, four or five candidates in the other 91. Of the 93 district members elected last April, 59 received a majority of the votes cast and no successful candidate received less than 40 per cent of the vote of his district. One might have expected a greater number of members elected by mere plurality vote and also some smaller pluralities. A representative body composed in large part of men elected by a minority vote of their district would hardly be satisfactory from any point of view, and a government formed by a majority of such a body would not necessarily represent the will of the majority of the nation's voters. Under the single-member district plan a comparatively small number of voters may, by shifting their vote from one party to another, affect the election results far more than their numbers would warrant. A five per cent deflection of party voters may cause a "landslide" for the opposition. The overthrow of a ministry, with the accompanying change in public policy, after such an election, would

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

not reflect any profound change in public opinion. Those who favor the new plan believe that its results represent more truly the public will and that it will make for greater stability and sounder progress in parliamentary affairs.

The new election law is manifestly a compromise. Copenhagen, with its large radical vote, has been given proportional representation. The modified single-member district plan outside of Copenhagen is a compromise between those who favor the old plan and those who demand proportional representation. It remains to be seen whether it will prove a stepping-stone toward proportional representation or, justifying the hopes of its friends, continue as a permanent institution. Even though the plan proves successful, it need not be extended to Copenhagen; for it is possible that the urban conditions of the capital city may be better met by proportional representation.

R. S. Saby.

Cornell University.

England's New Ministry of Health. Of great importance in the reconstruction program of the United Kingdom is the new ministry of health authorized by act of Parliament on June 3. At first sight it would seem that the local government board has merely changed its name. But this is not the whole truth. The new ministry is to become the one authority in all matters of health, taking over such duties from the home office with reference to factories and workshops, and from the education department, in regard to children at school. It will also assume, in England, the responsibilities of the national insurance commissioners under the legislation of 1911. New duties in connection with housing and the prevention of disease are undertaken. The whole of the health machinery of the country is, in short, concentrated under one responsible minister, who will coördinate and extend it.

The new ministry may be regarded as a monument to the statesmanship of the late Lord Rhondda. As a member of the local government board, he devoted a large part of his time to the study of means of promoting the nation's health, whose unsatisfactory state was brought to light by the medical boards under the military service acts. He found overlapping of functions, friction among the departments, jealousy, and a prevalent policy of obstruction; and he repeatedly emphasized the need of a coördinating authority clothed with adequate powers. The action that he at last contrived to bring about is timely for by common admission the nation stands, in matters of health admin-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

stration, at a crisis in its history. The birth-rate is falling, and industrial concentration in crowded areas is tending in the direction of physical debility and nervous disorders.

The new act sweeps away entirely the local government board and, in so far as England is concerned, the national insurance commission. Simultaneously with the order in council formally setting up the ministry of health, issued June 25, orders were issued relating to the boards of health for Scotland and Ireland. For technical reasons, the office of president of the local government board was continued until July 1, but since that date all powers under the new order have passed to the ministry of health, and the local government board has ceased to exist. Similarly, the insurance commissions have disappeared, and become embodied in the new ministry, except in Ireland, where the insurance commission continues its administration under the chief secretary. The Scottish insurance commission is absorbed in the Scottish board of health, and the local government board in Scotland is similarly absorbed in the board of health for Scotland, and will have a new under-secretary.

It must be noted that the ministry of health becomes the depository of powers formerly exercised by the local government board which do not pertain to public health. But the act permits the transfer by order in council "from the minister [of health] to any other government department of any of the powers and duties of the minister, whether relating to the relief of the poor or otherwise, which appear to His Majesty not to relate to matters affecting or incidental to the health of the people." It is therefore expected that, in the course of time, many of the financial and miscellaneous powers and duties inherited from the local government board will find lodgment elsewhere. Likewise it is provided in the act that powers and duties related to the health of the people now being exercised by other departments of the government may, from time to time, be transferred by order in council to the minister of health.

In order to secure proper coördination of existing, as well as prospective, administrative work concerning public health, consultative councils may be established to give advice to the minister. Four such councils have been proposed, dealing with (1) the medical and allied services; (2) the work of approved societies; (3) local health matters; (4) general health matters.

Among the most important duties of the new ministry will be the promotion and control of housing. A housing program adequate to

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the needs of Great Britain and Ireland would require an expenditure in excess of the whole of the national debt prior to the war. But plans are already made for about 100,000 new houses, and the local authorities in many places, especially in Yorkshire, are becoming active. Many difficult problems await solution by the new minister of health in connection with the housing question. There is a serious shortage of skilled labor; in the building trades there are 200,000 fewer people than before the war. Building materials are scarce and costly; it is no longer possible to secure supplies of timber from Russia, and the readily available mineral resources of England have been drained for war purposes. A great work, however, awaits the new ministry in this field.

With regard to future public health schemes, Dr. Addison, the new minister of health, has said: "The object of the new ministry is, of course, to provide better health services throughout the country, and we are now working on our health programme; and various proposals will be submitted to the consultative councils at no distant date. Indeed, I hope we shall be able to get some of our proposals under way this year. Some of them, of course, will not call for legislation. Maternity and child-welfare centers are being started; also venereal disease centers, of which we shall want at least a thousand. The tuberculosis work is to be greatly extended."

WILLIAM S. CARPENTER.

London.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

NEWS AND NOTES

Personal and Miscellaneous

EDITED BY FREDERIC A. OGG

University of Wisconsin

The program of the Cleveland meeting of the American Political Science Association, December 29–31, is substantially complete. Copies will be mailed to all members of the Association about December 1. The opening session, Monday afternoon, December 29, will have as its general subject the revision of state constitutions. Several recent and impending state constitutional conventions will be discussed by persons familiar with them. The session of Tuesday morning, December 30, will be held jointly with the American Historical Association, and will be devoted to political conditions in Russia. Soviet government in Russia will be discussed by Professor E. A. Ross; political conditions in Siberia will be described by Professor David P. Barrows; and there will be a paper on the Russian revolution. Tuesday afternoon a joint meeting will be held with the National Municipal League on the subject of budget reform, opening with a paper on the problem of a national budget, by Mr. James W. Good, chairman of the committee on appropriations in the house of representatives. The session of Tuesday evening will have as its general subject political conditions in the Far East, with a paper by Professor W. W. Willoughby on Japan, China and the Powers, and discussion by various persons familiar with conditions in the Far East. Wednesday morning's session, on foreign political conditions, will include a paper by Henry Bruère on the political system of Mexico and one by Professor W. J. Shepard on the new German constitution. On Wednesday afternoon there will be a session on national administration at which Professor E. S. Corwin will read a paper on the new federal system; Professor C. G. Fenwick, one on democracy and efficient government, lessons of the war; Professor John A. Fairlie, one on the problem of administrative legislation; and Mr. Lewis Mayers, one on some phases of the federal personnel problem. The closing ses-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

sion, on Wednesday evening, will be devoted to foreign political conditions; with papers by Dr. John H. Finley and Professor Philip Brown. In addition, there will be a joint meeting with the American Historical Association on Monday evening, at which the presidential addresses will be delivered.

A list of doctors' theses in political science at present in preparation in this country is being compiled for publication in the REVIEW, and will appear in the February issue. Information should be sent to the editor of this department.

Dr. Paul S. Reinsch, formerly of the University of Wisconsin, has resigned as American minister to China, a post which he has held since 1913. He has been appointed counselor to the Chinese government.

Professor J. M. Mathews, of the University of Illinois, has been granted leave of absence for the present academic year. He is engaged in research work in Baltimore and Washington.

Professor Orren C. Hormell, of Bowdoin College, is spending his sabbatical year in research work at Harvard University. He has been appointed visiting lecturer and will offer a course in municipal finance.

Professor John Alley, of the University of Oklahoma, has been granted leave of absence and is spending the year in advanced study, principally in international law, at Harvard University. Mr. S. W. Swenson, assistant in political science at Wisconsin in 1918–19, has been appointed to an instructorship at Oklahoma.

Dr. Raymond Moley, recently appointed associate professor of political science at the University of Minnesota, has since been made director of the Cleveland Foundation. He has been granted leave of absence by the University of Minnesota.

Mr. Albert J. Lobb has been promoted to be associate professor of political science at the University of Minnesota.

Dr. Edward Elliott, professor of international law and politics at the University of California, is on leave of absence and is acting as federal reserve agent of the twelfth federal reserve district.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Dr. David P. Barrows, who during the war served as lieutenant-colonel with the American forces in Siberia in the capacity of intelligence officer, has returned to his former position as professor of political science in the University of California.

Dr. Thomas H. Reed, formerly city manager at San José, has returned to the University of California, with promotion from associate professor to professor of municipal government.

The department of political science at the University of California has created within its organization two bureaus of research and public service. One is a bureau of public administration; the other, a bureau of international relations. These units constitute research laboratories, reference agencies, and mediums for the publication of contributions to the literature of their respective fields. Emphasis will be laid on the problems of the Pacific states. Dr. J. R. Douglas, who has returned from army service in Washington, is secretary of the first bureau, and Dr. C. E. Martin, lecturer in international law, is secretary of the second.

Dr. S. K. Hornbeck has resigned his appointment at the University of Nebraska and will remain for a time in government service. He recently accompanied General Harbord's mission to Armenia.

Dr. John P. Senning has been advanced to an associate professorship at the University of Nebraska. Since May 1 he has been engaged as a member of the preliminary survey committee for the constitutional convention which meets December 2. This committee was appointed by the supreme court of the state.

Professor John A. Fairlie has been engaged in preparing studies of problems to be considered by the coming Illinois constitutional convention. He has returned to his position at the University of Illinois.

Mr. Geddes W. Rutherford, of the Pittsburgh Normal School, has been appointed instructor in political science at Grinnell College.

Dr. James W. Bell, of Harvard University, who has returned from service overseas, has been appointed instructor in economics and political science at Williams College.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Mr. A. C. Hanford, of Harvard University, who has been honorably discharged from service as a lieutenant (junior grade) in the U. S. N. R. F., has been appointed instructor in political science at Wellesley College.

Mr. Edwin D. Dickinson, formerly assistant professor of political science at Dartmouth College, has been appointed to a professorship in the law school of the University of Michigan. He will give courses in international law and trusts. His book, *The Equality of States in International Law*, will soon appear as volume three of the Harvard Studies in Jurisprudence. He has also in preparation two volumes of selected cases and readings on international law designed primarily for use in law schools.

Dr. Pitman B. Potter, recently with the Carnegie Endowment for International Peace, has been appointed associate in political science at the University of Illinois.

The department of economics and political science at Stanford University has been divided into two departments. Professor Victor J. West, formerly of the University of Chicago, has been made head of the new department of political science, and Professor E. A. Cottrell, of Ohio State University, has been appointed to a professorship in the department.

A national conference on immigration is to be held in connection with the Third World Christian Citizenship Congress at Pittsburgh, November 9–16. Among topics to be discussed are: problems of international and inter-racial migrations, scientific standards for the regulation of immigration, immigration and the American labor question, standards and methods of Americanization and naturalization, an international bureau of immigration, and immigrant distribution.

Under the leadership of James A. Farrell, chairman of the National Foreign Trade Council and president of the United States Steel Corporation, a movement is under way to establish a school of foreign service at Georgetown University, Washington. The plan springs from the policy of supporting specialized education for foreign trade which the Foreign Trade Council has pursued since its inception in 1914. A faculty of twenty members has been assembled from the

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

commercial personnel now available at the national capital, and instruction is now being given to a limited group.

In December, 1918, the Philippine legislature provided a scholarship fund of $150,000 for the support of one hundred students who will be sent to the universities of the United States. The scholars appointed under the act will pursue studies calculated to fit them for positions in the executive departments of the government; namely, the departments of interior, finance, justice, agriculture and natural resources, commerce and communications, and public instruction. Appointments for the present year were made principally from persons already employed in the various bureaus of the departments.

The Second Pan American Commercial Conference, which was held under the auspices of the Pan American Union in the Pan American Building, Washington, June 2–6, 1919, was one of the most successful gatherings of its kind ever convened in the national capital. A thousand delegates were present, including representatives of all the governments and many of the leading commercial and financial firms of Latin America. The opening session was devoted to addresses by the vice president, the acting secretary of state, several Latin American ambassadors and ministers, and other high officials. Among other speakers during the conference were Charles M. Schwab, Frank A. Vanderlip, Edward N. Hurley, the speaker of the house of representatives, the secretary of commerce, and a large number of experts of the United States and Latin America in Pan American trade. In summarizing the work of the conference, John Barrett, Director General of the Pan American Union, who presided over most of its sessions, stated that it was the most comprehensive and practical conference of its kind that had ever assembled in the Pan American Building, and that it had thoroughly developed the Pan American viewpoint, that is, the viewpoint of Latin America as well as the United States. The report of the conference, with a full record of the proceedings, also includes an extensive compilation of Pan American commercial and financial data.

Preparations are now being made for the Second Pan American Financial Conference, which will be held in the Pan American Building in January, 1920. This is called by the secretary of the treasury under authority of Congress, and will be attended by the ministers of finance and other delegates of nearly all the Latin American coun-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

tries. The United States, in turn, will be represented by corresponding officials and representative financiers. The arrangements for this conference are in the hands of Dr. L. S. Rowe, assistant secretary of the treasury.

Preliminary consideration is also being given to the Third Pan American Scientific Congress, which will be held in Lima, Peru, in 1921. The Second Pan American Scientific Congress was held in Washington in the winter of 1915–16. It is hoped that the Lima Congress will be equally successful and well attended, especially as there will take place that same year the celebration of the independence of Peru.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

BOOK REVIEWS

EDITED BY W. B. MUNRO

Harvard University

Democracy in Reconstruction. Edited by FREDERICK A. CLEVELAND and JOSEPH SCHAFER. (Boston: Houghton Mifflin Company. Pp. 491.)

Problems of Reconstruction. By ISAAC LIPPINCOTT. (New York: The Macmillan Company. Pp. 340.)

Economic Reconstruction. By J. TAYLOR PEDDIE. (London: Longmans, Green and Company. 1918. Pp. 242.)

Reconstruction and National Life. By CECIL FAIRFIELD LAVELL. (New York: The Macmillan Company. Pp. 193.)

Reconstruction, as Americans have been in the habit of using the term, is not a word of felicitous association, and it is therefore a little surprising that so many books dealing with the general subject of post-bellum changes should use it as a part of their titles. It would take the fingers of both hands to count the several volumes which, bearing on their covers some title akin to those enumerated above, have seen the light of day since the German envoys appeared at Spa. The air is surcharged with talk of reconstruction, although it is to be feared that the actual manifestations of it are not so much in evidence.

One great practical merit of such a title as "Democracy in Reconstruction" is that it enables its editors to bring together an array of chapters which run the whole gamut from social insurance to the motorizing of highways. Running also true to the conventional, Messrs. Cleveland and Schafer begin with a chapter on "The Historical Background of Reconstruction" which touches the high spots of American history in a gallop back to the days of the "first frontier." Having taken this flying start in the wrong direction the way is paved for a restatement of the old truisms concerning the ideals and concepts of democracy.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

With these preliminaries out of the way the reader will find himself face to face with some very concrete discussions of democratic government in its relations to private property, health, education, labor, and the public service. Some of these chapters are notably clear and incisive; others represent for the most part a profitless threshing of old straw with scant gleanings for the reader. The later part of the book is a miscellany with no firm thread holding it together. A chapter on ocean commerce rubs shoulders with one on the principle of division of powers in government. There is some good material in this considerable expanse of closely-printed pages, and some forceful writing; but a lot of prosy stuff keeps it abundant company.

All in all a score of writers have been drawn upon for contributions, most of them men and women of high authority in their respective fields. A mosaic of such dimensions must of course display serious imperfections, but the volume is on the whole somewhat more uneven than even this circumstance seems to warrant. It has obtrusive earmarks of haste, including the absence of an index. As the publishers confess in an announcement accompanying the book, it was "rushed through."

Professor Lippincott's volume on the *Problems of Reconstruction* is a book of a different sort. It is the work of a single author and its main theme is the control of economic life during the war period both in the United States and in Europe. There is a thoughtful chapter on the economic results of the great conflict. Dr. Lippincott is not partial to generalities; indeed he leans overmuch in the opposite direction. This is a wholly pardonable shortcoming and might even be accounted a virtue in these days when the armchair diagnosticians of humanity's ills are in full cry; but there are more details in the book than the demands of accuracy make essential. A closing chapter entitled "A Reconstruction Plan for the United States" is admirably definite and will repay a second reading. It is not a brief for any particular plan, but a sane discussion of the practical alternatives as the author sees them.

The volume on "Economic Reconstruction" contains a development of the views which Mr. Peddie set forth in an earlier book on what he termed a "national" system of economics. Of some interest to political scientists, however, is the short chapter on "Equality" in which the author endeavors to explain what democracy really means when it discusses equality and what it does not mean. The analysis here is not marked, however, by anything that is either novel or profound.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Professor Lavell's book is briefer than the others, but in some respects it is more comprehensive and in all respects it is more instructive than any of them. When an author undertakes to survey the problems of social, political and economic readjustment in France, Germany, Russia, Great Britain and the United States he sets himself to no small task. And when he undertakes to give his readers the pith of such survey in a volume of less than two hundred pages he must necessarily incur the risk of leaving many vital things unsaid. But Dr. Lavell's book should be judged by what it contains, not by what it omits; and it contains a good deal that will be helpful to any earnest student of our yet unsettled problems. The subject in all its phases is approached from the historical side, which all too often is a neglected angle of approach. Far too much has been written about reconstruction by men who have a very hazy notion of the materials from which the reconstructed social order must of necessity be built. Dr. Lavell's book is not in that category. It is not for the reader who prefers to remain oblivious to the plain lessons of history. But the student who realizes the value of keeping one eye on the past when endeavoring to interpret the facts of the present will find this volume of very great interest. W. B. M.

A Survey of International Relations between the United States and Germany, August 1, 1914–April 6, 1917. Based on official documents. By JAMES BROWN SCOTT. (New York: Oxford University Press. 1917. Pp. cxiv, 390.)

Diplomatic Correspondence between the United States and Germany, August 1, 1914–April 6, 1917. Edited with notes and an analytical index. By JAMES BROWN SCOTT. (New York: Oxford University Press. 1918. Pp. xlix, 378.)

President Wilson's Foreign Policy. Messages, Addresses, Papers. Edited with introduction and notes. By JAMES BROWN SCOTT. (New York: Oxford University Press. 1918. Pp. xiv, 424.)

These three volumes are issued in separate and distinct form, but they are printed and bound in such way as to look like a series. They are, in fact, very closely related to one another in theme and sub-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

stance. Taken together they embody the essential materials for a study of the great war's entire diplomatic history so far as American participation in the struggle with Germany is concerned.

The first volume, in the course of an elaborate introduction, sets forth the German conceptions of the state, of international policy and of international law as found in the writings of German publicists from Frederick the Great and Hegel to Bernhardi and the last of the Hohenzollerns. Then follow two concise and illuminating chapters on the "Genesis of the War" and "The Neutrality of the United States." The remainder of the book takes up in succession many topics which were made the subject of diplomatic correspondence between Washington and the Wilhelmstrasse during those hectic days of 1914–1918, including the German charges of unneutral conduct, the seizure of persons and property on the high seas, the interpretation of the term "contraband," the sale of munitions, and finally the transcending question of submarine warfare. All these matters are presented clearly, cogently and with adequate documentation. Together the discussions make up a book which every future student of international law must recognize as a godsend because it affords so ready a guide through many complex situations.

The differences of opinion which appeared so clearly in the diplomatic correspondence between the two countries during the twenty-one months preceding the American declaration of war stand out in bold relief on the pages of the second volume. The file of correspondence is complete and upon it rests the case of each country before the bar of history. Mr. Scott showed good judgment in presenting these communications just as they passed across the Atlantic, without any critical or narrative comment, leaving the various reports, notes, memoranda, and replies to unfold their own story. Some very useful explanatory footnotes are appended, however, and the analytical index is a most valuable feature of the book. A short introduction precedes the official documents, but in this the editor does little more than give the chronology of the friction which ultimately developed into war between the two countries.

President Wilson's views upon the foreign policy of the United States were naturally of great importance and influence during the period in which America strove to maintain a neutral attitude. His messages, addresses and papers, as arranged and annotated by Mr. Scott for inclusion in his third volume, cover a wide range of subjects, some of which did not go very close to the European upheaval. The editor

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

has included some addresses (notably the President's message of August 27, 1913 on the Mexican situation), which had nothing to do with the war. Then follow many views expressed by the President on various occasions during the period when neutrality was being emphasized, and finally there is a well-edited array of messages and addresses delivered on the eve of America's entry into the war or after participation had begun. An appendix contains some additional papers on Mexico.

The editor holds an undaunted confidence in the relentless consistency of the President's views on foreign policy during these three years. All the documents, he thinks, are but the "varying expressions of a single, definite, conscious purpose, namely, the strengthening of constitutional government where it existed, leavened with democracy, and the introduction of constitutional government where it did not exist, of a democratic nature or tendency." But a good many readers, if they go through these papers thoughtfully, will have great difficulty in reconciling themselves to the belief that either singleness, definiteness or consciousness of purpose is their dominant characteristic. "The strain of democracy" may "run through all these messages like a golden thread," as Mr. Scott declaims, but haziness of phraseology seems also to have done service in permitting elbow-room for a change of front at times.

However, the editor's Boswellian adulation has not affected the soundness of judgment or the skill with which he has made his selection of materials and put them together. None of the volumes would have suffered much, perhaps, if the patches of lurid rhetoric which appear now and anon in the introductions had been left unwritten. As for the publishers they have done their part faultlessly. The diacritic who could find aught to cavil at in these three handsome volumes, so far as the printer's workmanship is concerned, would be raising no standard to which the wise and honest might repair.

America Among the Nations. By H. H. Powers. (New York: The Macmillan Company. Pp. 373.)

The underlying theme of this book, which will find ready acceptance in some quarters, is that American isolation is past and that American independence is passing. The fierce rivalries of Europe, which once quite overlooked us, and enabled us safely to indulge in the pleasing fancy that we could "lick all creation," have finally sucked us into the vortex of international politics. Henceforth, willingly or unwillingly,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

we must cope with that stern reality which may conveniently be called "race competition."

Starting with these premises, Professor Powers undertakes an appraisement of national or international character with the avowed purpose of making it plain that we shall never be alive to our real danger, until we fully appreciate that nations are prone to be tempted by mere opportunity or driven by great need to despoil their neighbors. The two nations whose hunger is greatest—the likelihood of attack for an indefinite period from other quarters being, for stated reasons, dismissed as negligible—are Germany and Japan. The case for each is set forth with marked impartiality and acumen. Any single power may conceivably be successfully resisted. The perpetual possibility is that two or more powers may make common cause against us—this is the ultimate issue. The author does not hide his skepticism of any attempt to institute vital relations of helpfulness between nations by formal alliances. The "great fellowship" for us is Anglo-Saxon unity.

The first part of the book is devoted to a searching analysis of the history of our own territorial expansion. This is presented with a detachment and candor which a foreign critic might envy, but it admirably serves the aim sought, which is to emphasize that the temperamental attitude of the American people towards militancy and imperialism is not unlike that of other peoples—based on self-interest.

The book is not without minor blemishes. The reader, for instance, must infer (p. 293) that Germany acquired the Caroline Islands by annexation in 1884–85. It was not, of course, until the break-up of Spain's colonial empire after the Spanish-American War that Germany got her title by purchase in 1899. The critical reader will, moreover, miss an adequate index. He is likely too, in spots, to regard some of the material as at least extraneous to the main inquiry. But on the other hand, the method of presentation is the reverse of ponderous, and the book should make a strong appeal to those who seek within a limited number of pages a comprehensive and philosophical interpretation of the world politics of today.

ALBERT H. WASHBURN.

Dartmouth College.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

National Progress, 1907–1917. By FREDERIC AUSTIN OGG. (New York: Harper and Brothers. 1918. Pp. xxii, 430. American Nation Series. Vol. 27.)

Professor Ogg is to be congratulated for having written one of the most interesting and instructive volumes of the American Nation Series. His style is clear, plain and attractive; his choice of topics commendable, embracing the legislative aspects of finance, capital and labor, the general phases of foreign policy, and the presidential campaigns. The discussion is always able and clear, while the analysis of important laws is untechnical and suited to the general reader. Some may regret that a fuller exposition is not given of the subject of neutrality and of the other problems of international law arising out of the great war.

The author himself realizes the pitfalls besetting one writing of contemporary events, declaring in the preface, "bewildering masses of detail await sifting and interpretation; perspective along permanent lines is impossible of attainment, and despite one's best efforts to assume a detached view-point, judgments of events and persons are likely to be open to a suspicion of partisanship." Opinions would differ as to the proper solution of these difficult problems of construction. First as to proportion: Professor Ogg devotes, out of 400 pages, 20 pages each to the three presidential campaigns of 1908, 1912, and 1916, more than Professor Latané earlier in the same series gave to the campaign of 1900 or of 1904, more than Professor Dewey bestowed on the free coinage campaign of 1896. Ten pages are given to the Payne-Aldrich tariff law, 10 to the Underwood law, considerably more than Professor Dewey gave to the McKinley law. The difference is to be accounted for by the details of convention manipulation and of the legislative history of bills in the present work. Writing in the years 1916 and 1917, it would have been difficult indeed for any author to place the Adamson law regulating the hours and wages on railroads in a proper perspective; but withdrawn as we now are two years from the event, some at least would not allow, with Professor Ogg, 10 pages to this law and the discussion attending it. It is questionable, too, if the "Mexican Imbroglio" deserves as much attention as the constructive legislation of Congress in the first part of President Wilson's first term, or as the questions of the Caribbean or of the Pacific and Asia. Mexico, like the more important topics, fills a chapter, and each chapter occupies about 20 pages.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The author is as successful as could fairly be expected in avoiding "the suspicion of partisanship."

EMERSON D. FITE.

Vassar College.

British War Administration. By JOHN A. FAIRLIE. (Carnegie Endowment for International Peace: Preliminary Economic Studies of the War, edited by David Kinley, No. 8. New York: Oxford University Press. Pp. xi, 302.)

The war produced striking changes in the British constitution—changes so striking that books like Sir William Anson's *Law and Custom of the Constitution* and President Lowell's *Government of England* might almost be said to be now out of date. Not only has there been during the war a wide extension of the sphere of government in Great Britain, but the very machinery of government has been in some respects profoundly altered. How far the changes will be permanent, or what, if permanent, they will lead to, it is as yet perhaps too early to say; and Professor Fairlie's attempt to describe the war-time innovations in the British constitution might be open to the charge of prematurity, were his book not described on the title-page as a "preliminary" study.

Within these modest limits, however, and once this *caveat* is uttered, it should be said that Professor Fairlie has done an admirable piece of work. He has brought under review the whole range of British executive government in the greatest detail down to the end of 1917, and in lesser detail since that date, when his sources began to be difficult of access; and he has placed in clear relief the tendencies in British government during the whole of the war period. Some of his strictures on certain phases of British war administration—such as the multiplication of administrative departments during the war—might well be taken to heart by British statesmen.

One could wish that he had laid, however, less stress on some of the minor departmental details of the administration, and more on some of the more important and revolutionary developments. He touches but lightly, for example, on the "Imperial War Cabinet"—which, by the way, he refers to as the "Imperial Cabinet," a term for which, so far as we know, there is no authority. This Imperial War Cabinet—a body distinct from the British War Cabinet—is perhaps the most epoch-making departure in the British constitution during the last

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

hundred years, since it is the first actual attempt to deal with the problems and anomalies of modern British imperialism; and Professor Fairlie would have done well to devote to it more attention than to prize courts, food control regulations, and local government board's committees. His discussion of the central administration of the British army is also somewhat lacking in insight: one misses in his pages such a penetrating analysis of the defects of the British organization for war as is to be found, for example, in the last chapter of General Maurice's *Forty Days in 1914*.

But in these and in similar matters, Professor Fairlie was doubtless limited by his materials; and on the whole, if the preliminary character of the book is kept in mind, the student of the British constitution will find himself placed under great obligation by reason of the vast amount of new material brought together.

W. S. WALLACE.

McMaster University.

The European Commonwealth. Problems Historical and Diplomatic. By J. A. R. MARRIOTT. (Oxford: Clarendon Press. 1918. Pp. xi, 360.)

Mr. Marriott, who is perhaps the most prolific English-writing historian of nineteenth century Europe, has selected for republication under this title fifteen out of his many war contributions to the English reviews. Transition from chapter to chapter in a book thus constructed is necessarily very abrupt, but the author hopes that some unity of thought is to be found "in the problem presented by the evolution of the European Nation-State and the influential though elusive principle of nationality." An interesting chapter on the rise of modern diplomacy argues clearly that diplomacy is modern, "the necessary concomitants of the States-system which has characterized and dominated the European polity for the last four hundred years;" and this is followed by two essays that point, by special reference to British and German foreign policy since the fifties, the reorientation of diplomatics that dates from the late seventies.

The bulk of the studies is concerned with the historical aspect of questions directly propounded by the origins and course of the war—the consistency of Hohenzollern policy, the influence of Belgium, especially in its relation to British interest in continental developments, the nationalistic and territorial problems of Poland, the Balkans,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and the Adriatic. The concluding essay rehearses once again the lessons of the failure of 1815–1822.

The breadth of Mr. Marriott's learning combines with the ease and clarity of his style to fit him peculiarly for the instruction of that enormous thinking public which, both in Britain and America, has been shocked in these last years by a realization of its ignorance of the evolution of modern Europe into a belated excursion to its historical sources. It is true that Mr. Marriott cannot add very much to the close student's knowledge of nineteenth century diplomacy; as he points out more than once, the field of research is strictly limited by the impossibility of obtaining access to the British Foreign Office Papers of the last sixty years, and by the care with which these records are guarded from the public eye as far back as the accession of Victoria. Also, in the nature of the case, he is far more concerned that the great questions shall be properly asked than that an historian should be expected to answer them. But he excels in the art of making these questions grow and stand out from their true historical background, and thoughtful people will at least find in his appeal to history a wholesome corrective to the glib anathematization of phrases like "secret diplomacy" and "balance of power" that seems in too many quarters to do duty for an honest study of the international past.

W. P. M. KENNEDY.

University of Toronto.

The State and the Nation. By EDWARD JENKS. (New York: E. P. Dutton and Company. Pp. vii, 312.)

The State in Peace and War. By JOHN WATSON. (Glasgow and New York: The Macmillan Company. Pp. viii, 296.)

Political scientists are laboring under a grave handicap. Their terminology is defective. How shall we describe the concept to which many of us are accustomed to apply the term state? What is the difference between a state and a nation? Too much of our energy is in a fair way to be dissipated in barren logomachy. Fundamental definitions need standardization.

Professor Edward Jenks has recently revised the text, long known under the title of *A Short History of Politics*, and renamed it *The State and the Nation*. The new name implies a distinction between the two concepts. When we examine the contents of the volume, we

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

find that the author means by state the institutions by which government is carried on. He does not mean even all the institutions of government, but merely that one, or more, to which the others are subordinate (see p. 10). Now comes Professor John Watson with a wholly new book, *The State in Peace and War*, and declares that "it is of great importance to recognize that the state can not be identified with the government, which is merely the organ through which the harmony of the various organizations included in the state is effected." He proceeds to quote with approval from Mr. Bosanquet: "The state includes the whole hierarchy of institutions by which life is determined, from the family to the trade, and from the trade to the church and the university." So he is able to conclude that national gildsmen like Mr. G. D. H. Cole are not attacking the state, as they had supposed, but are merely discussing theories of government. Professor Watson's concept of the state is distinguishable with difficulty from Professor Jenks' concept of the nation.

In this age of reconciliation between bookishness and worldliness political scientists should profit by the example of the economists and adapt their terminology, as far as practicable, to the language of the men of affairs. The sense in which such men employ the terms is indicated by the choice of language in the covenant of the League of Nations. In certain international relationships a distinction is recognized between fully self-governing dominions and colonies and other states, but none between state and nation. The political scientist will not find it practicable to use the terms interchangeably, but he should not employ them arbitrarily in a sense inconsistent with their use in the covenant.

The most interesting chapter in Professor Jenks' book, to the reader already acquainted with it in its earlier form, is the last on "Proposals of Change." He discusses the League of Nations, proportional representation, the Whitley scheme, syndicalism, national gilds, and state socialism. His disposition is unsanguine, though not in all cases unsympathetic.

Professor Watson's little volume should be a welcome addition to the literature of politics. Well versed in the classical learning of Victorian Oxford, loving his Plato and his Aristotle, his Kant and his T. H. Green, he reports and refreshens the idealistic political philosophy of which Americans cannot afford to become heedless. His is a point of view that is perhaps already too rare in this realistic generation.

A. N. Holcombe.

Harvard University.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Japan and World Peace. By K. K. KAWAKAMI. (New York: The Macmillan Company. Pp. 196.)

In this attractive little volume intended for American readers there is presented a fourth installment of the Japanese propaganda emanating from the facile pen of the director at San Francisco. Since 1917, when *Japan in World Politics* was published, Mr. Kawakami has developed only three new topics—"Japan's Part in the War," the "Race Problem in the World League," and "Japan and Siberia"—which are the subjects of the first, third, and fifth chapters of this book. The other matters discussed are Japanese emigration, anti-Japanese legislation in the Pacific coast states, the Monroe Doctrine, and Chino-Japanese relations.

An appearance of fairness is given to the treatment of these topics by judiciously interspersing criticisms of Japan's policy, especially toward China during the Okuma administration. But apart from these specious admissions of error, usually of form, this volume is a thoroughgoing defense of Japan's position in her relations with foreign countries. For example, her pressure on China is defended on two grounds: first, "the degeneration and disorganization of China," and second, Japan's profound interest in the welfare of her continental neighbor. The author regrets the "twenty-one demands," not because the demands were improper *per se*, but because the way in which they were made has caused the world to distrust Japan's motives and actions. He denies flatly that Japan forced any concessions from China during the war, and declares that such conventions as were made between the two countries during that period were in the best interests of China, or at least were not more unscrupulous than those forced upon China by the various western powers between 1895 and 1898. Mr. Kawakami is silent upon the secret treaties made at the instance of Japan with Great Britain and France regarding the disposition of Shantung and the Caroline and Marshall Islands. In praising the Ishii-Lansing agreement he omits to point out that the state department was induced to acknowledge Japan's "special interests" in parts of China contiguous to her spheres of influence without being informed that Japan had already secretly negotiated for the province of Shantung as part of the compensation she expected for her participation in the war.

The tone of the book, especially on the emigration, race equality, and Monroe Doctrine questions is bitterly anti-white, and on China it is

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

altogether cynical, not to say insulting. In the latter respect the author has the active support and encouragement of the president of the Japan Society of New York.

Apart from the opening chapter, which is informative, this book contributes little to our knowledge of Japan.

W. W. McLaren.

Williams College.

The Movement for Budgetary Reform in the States. By William Franklin Willoughby. Institute for Government Research, Studies in Administration. (New York: D. Appleton and Company. 1918. Pp. 253.)

Of the various movements for the improvement of state government none has made more rapid progress during recent years than the reform of budgetary procedure. Wisconsin and California in 1911 were the first states to adopt budget systems, since which date the movement has spread until at present there are more than twenty-five states which have provided for some sort of a budget system. The origin of this movement, its present status in each of the commonwealths of the Union, and the special problems involved therein form the subject of this volume. This work may be regarded as a companion volume to *The Problem of a National Budget* by the same author, and the two books taken together give a full presentation of the problems involved in budget making, as well as a detailed account of the action that has been taken by the national government and by the states of the Union looking toward the introduction of a budgetary system.

In the introductory chapters the author traces briefly the origin of the movement for budget reform in the American commonwealths, showing how the movement commenced first in the municipalities of the country and then later was carried over to the states where it has progressed at a far greater rate of speed than was the case in the cities.

Having traced briefly the origin and spread of the movement for state budgetary reform, Mr. Willoughby has devoted the main body of the volume to a detailed description of the action that has been taken by each of the states. The text of the budget laws adopted by the several states is reproduced in full, which is one of the most valuable features of the book from the standpoint of the student, as well as of public officials and others directly connected with the enactment and administration of budget laws. Particular emphasis is laid upon

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

the extent to which each legislative act conforms with or falls short of the requirements of an ideal budget system.

Especial attention is given to the Maryland budget system, which has been provided for by constitutional amendment, and to the laws of New Mexico and Utah—the three states which have gone farther than any others by adopting substantially the British system, making the governor responsible for the formulation and initiation of the budget and providing that items in the budget so introduced should not be increased by the legislature except in special cases. In practically all of the other states the laws provide for the initiation of the budget by the governor, or by a special commission made up of members from the executive and legislative branches of government, but there is no limitation upon the legislature as in the three states above mentioned.

The final chapters of the book are devoted to a comparative study and criticism of the main features of the budgetary legislation of the states. The one point which Mr. Willoughby emphasizes above all others is that a thoroughly satisfactory budget system cannot be established that does not rest upon an "integrated administrative system." An executive budget, in his opinion, cannot be expected to work with any degree of success unless the state government is so reorganized that the several administrative services and institutions are grouped according to their character into departments, all of which are under the general direction, supervision and control of the governor.

Another point which stands out prominently in Mr. Willoughby's book is the fact that the word "budget" is one with which reformers have conjured, and that it has been regarded as an Aladdin's lamp which merely had to be touched to work wonders. In the enactment of a budget law, the state has made but the first step toward securing for itself a scientific budget system. There are many other factors involved in the problem, the most important of which are an integrated administrative system, the creation of a central budget organ through which the governor can exercise his powers, and the need for a uniform system of public accounting and reporting that will produce the information necessary for budget purposes. The author concludes that until the requirements have been met, no state can be said to have a thoroughly effective budget system.

A. CHESTER HANFORD.

Wellesley College.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Principles of Government Purchasing. By ARTHUR G. THOMAS. Institute for Government Research. (New York: D. Appleton and Company. Pp. xiii, 275.)

Comparatively little has been written regarding the principles of government purchasing, and for this reason it is especially pleasing to have a man of Mr. Thomas' experience present the results of his studies in book form.

The book is divided into two parts and an appendix. Part I consists of three chapters, I. Introduction, II. The Centralization of Purchasing in Governments, and III. Legal Restrictions in Government Purchasing. Part II, consisting of twelve chapters, is entitled "Purchasing Methods." In the appendix are found three articles: "Purchasing System of the General Electric Company," "Purchasing System of the New York Central Railroad, Eastern Division," and "Continuing Agreements in City Purchasing."

The author's acquaintance with the purchasing methods found in private business adds materially to the value of the book. He discusses the buying methods of private corporations, and shows how such methods could be used to advantage in government purchasing. There is no attempt to urge the adoption of all methods used in private business, but the value of certain principles is indicated. The author emphasizes the need of more centralization of purchasing in governments, and discusses at considerable length the legal restrictions surrounding the government purchasing agent. He shows clearly the futility of some of these restrictions.

About one hundred and fifty pages are devoted to the discussion of purchasing methods. The most satisfactory methods are pointed out. The author does not tire the reader with detail as to procedure and refrains from presenting business forms. There is little attempt to summarize the fundamental principles or to distinguish between the minor and the more important. This is unfortunate in a book of so much merit. The book is well written and easily read. It is not a mere popular treatise on the subject, but is the result of many years of study in the field of purchasing.

JOHN M. GRIES.

Cambridge, Mass.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

A History of the New Jersey Penal Institutions. By HARRY ELMER BARNES, Ph.D. (Trenton, N. J.: MacCrellish and Quigley Company. 1918. Pp. 643.)

There are books enough for a great library on the development of methods of dealing with lawbreakers. There are many on the science of penology, with reasons for adopting this or that method. Here is one which deals with the concrete instead of the abstract. It tells what a single state has been doing in the last two hundred and fifty years. The student will find here the application of the principles which governed the makers and administrators in the early days when good men began to devise methods of dealing with bad men.

The theory was that the only way to abolish crime was by the punishment of the offender, which would deter him from repeating his offense, and would restrain others. It did not occur to any one to ask whether the results sustained the theories. If the statistics had been studied, it would have been found that neither the offender nor the potential offender was affected materially. The former adjusted himself to his treatment; the latter took his chances of detection and punishment.

This history registers the growth of public sentiment, as expressed in criminal codes, and in new institutions; the efforts to improve prison buildings and prison methods; the contest between systems, like that of Pennsylvania and that of Auburn. It is a story of the gropings of the blind, with a feeling that there must be some solution of the crime problem. It was a record of failure, so far as the abolition of crime was concerned.

Twenty years ago New Jersey discovered the cause of this failure—the unsoundness of the underlying principle of the punitive system—and began to act upon the new one, that the purpose of imprisonment should be reformation, and that the restoration of the offender to society could be accomplished only by the use of definite efforts. Its reformatory at Rahway is one of the best in the country, and its state prison has received some of the benefits which have come from the adoption of the new principles. After thirty years of agitation, a reformatory for women has also been established, based on the new principles.

That portion of the volume which is devoted to the history and development of institutions for juvenile offenders is a record of the progress which has followed the changes in public sentiment, from the time

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

when they were imprisoned with adults, to the recognition that their problem is largely one of formation rather than re-formation, and that the processes should resemble, as far as possible, those of the normal home of the ordinary child, with such modifications as are made necessary by the mental defectiveness of a considerable number.

Of the history of jails and workhouses nothing need be said except that the New Jersey institutions do not differ materially from those of other states, where they are known by all students of social problems as what Hawthorne called them—the black flower of our civilization.

Nearly one-half of the 643 pages is devoted to the documents upon which the history is based. Those in reference to the colonial period are specially interesting. Altogether the book is an important one for those who wish to study penological developments.

WARREN F. SPALDING.

Cambridge, Mass.

Our Cities Awake. By MORRIS LLEWELLYN COOKE. (New York: Doubleday Page and Company. 1918. Pp. 348.)

Perhaps it is unnecessary to state to students of political science that the author of this book served for four years as director of public works of Philadelphia in the reform administration of Mayor Rudolph Blankenburg. When the history of municipal administration in America is written his work in this great administrative position will constitute one of its most inspiring and hopeful chapters. The author modestly calls this volume *Notes on Municipal Activities and Administration.* It is in fact a somewhat detailed commentary upon municipal administration in general, with a wealth of illustrative material drawn from his experience in Philadelphia.

As a city executive Mr. Cooke combined a high order of technical efficiency with a keen understanding of the human elements involved in effective public administration. Realizing, too, that the citizens of a city desire to know what their public officials are doing he used modern advertising methods in "selling" the excellencies of his work to the public.

Large space is given to the more important problems which every administrator faces, the selection of personnel, the ordering of the mechanics of administration to secure the maximum of service from the means at hand, and the difficulties which every forward-looking administrator sometimes has with the entrenched forces of privilege. Illu-

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

mination is given to the treatment of each of these subjects by means of a wealth of first-hand material. In his treatment of civil service there is revealed the impatience of the master administrator with the restrictions upon the power to select employees imposed by an independent commission. Mr. Cooke points out that the assumption of the traditional civil service philosophy that a number of job seekers may always be had for a particular post does not square with the actual fact that the man who is worthy of most positions must be sought out and interested in the position which is vacant. Civil service authorities must therefore cease to be judges and measurers and become seekers after talent and adaptability. And in the quest more efforts should be devised to attract the attention of suitable candidates than the traditional uninspiring "list of positions."

Standardization and the development of the efficiency methods are to Mr. Cooke not ends in themselves. Neither are they sordid devices for "saving the taxpayers' money." "We progress from one thing to another only as we so standardize our practice as to make the thing we have been doing so easy that we have time to do the next thing . . . . We need standardization principally in order to free the spirit for new adventures." The chapter on municipal utilities indicates briefly, but with characteristic firmness, the magnitude of the public problem involved in the regulation of those corporations which serve the public at large, and the difficulty of settling the question by any single formula of reform.

Perhaps the most distinctive contribution which this volume makes to the cause of better municipal administration is the chapter entitled, "The Arm of Publicity." In this the author reveals through a multitude of brilliant suggestions the art of informing the public concerning the importance of good government. Advertising the work of the city is based upon two factors in modern life: the increasing interest of the public in government, and the complexity and multiplication of interests which make it necessary that information given to the public be brief and forceful. Mr. Cooke started with the theory that the public really appreciates good administration, but that good administration justifies itself only through the medium of advertising. Consequently he instituted a revolution in the making of public reports, public improvements were explained by every graphic device known to modern publicity, while the coöperation of the mass of citizens was constantly sought by forcefully placing before them the problems in which the city needs the assistance of the public. The facility of Mr.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Cooke and of his assistant and collaborator, Mr. Hodges, in presenting facts in a popular manner has moreover made this book the most attractively illustrated book with which the field of government has been enriched in a generation.

It is somewhat to be regretted, however, that this useful contribution should be cumbered with the chapter on the organization of city government, a somewhat badly ordered, inaccurate and inadequate sketch of forms of city government. This field has been covered so well and so often that Mr. Cooke might properly have limited himself strictly to the field of administration.

RAYMOND MOLEY.

Western Reserve University.

Experts in City Government. Edited by EDWARD A. FITZPATRICK. (New York: D. Appleton and Company. Pp. xiv, 363.)

The latest volume in the National Municipal League Series contains the contribution of nearly a score of writers and "experts" in the field of city government and administration, among whom are President A. L. Lowell, Professors E. A. Ross, Clyde L. King and C. A. Beard, and Messrs. Delos F. Wilcox, Edward A. Fitzpatrick, John Collier, Morris L. Cooke, and Harold S. Buttenheim. Its scope can best be understood from the editor's statements in his preface, "Expert city government . . . . is the much needed agency to transform the city into an active, positive, and constructive instrument of public welfare." But efficiency is not the first interest of the book: this is, rather, "in seeing that the city accomplishes the social purposes which brought it into being and makes its continuance necessary." A prime factor in gaining this end is a realization of the importance of public opinion and "a direct rather than a vicarious citizen interest in support of government and particularly of expert government." The present volume is directly faced toward these larger aims. Especial attention is paid to the concrete and practical matters concerned, and it particularly strikes home in its emphasis on the lack of attractions offered by the public service to the right kind of person, for which situation various improvements are suggested.

As the work of many writers, the book offers some advantages and the corresponding essential difficulties. It contains much interesting material brought together; it presents views which do not always agree,

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

and to which the editor takes frequent exception; it seems obviously written for the lay reader and will be better used for reference than for consecutive reading. Of particular interest are the chapters on "Citizen Co-operation with Government through the Community Center" by John Collier, on "The Control of the Expert" by Professor Beard, and on "Present Use of Experts in Municipal Administration" by Willits Pollock. The last-mentioned chapter includes charts showing American, British and Prussian types of municipal organization. An appendix contains "city manager mortality data." Much of the information which is found in the book will be out of date in a short time, while a few of the chapters have been reprinted from other publications. There is a sufficient index, and the book is well printed.

ALICE HOLDEN.

Wellesley College.

The Little Town, Especially in its Rural Relationships. By HARLAN PAUL DOUGLASS. (New York: The Macmillan Company. Pp. ix, 258.)

The cardinal sin of books that profess a frankly "inspirational" purpose in the treatment of social or political subjects is looseness of thinking, both in the gathering and the interpretation of facts. This sin has been very largely avoided by Mr. Douglass, in the present volume, and the result is a book of unusual interest and worth.

Addressed to the "little town mind," the book describes the present condition and future possibilities of the little town in language that will gain sympathetic attention. From intimate first-hand knowledge of what he discusses, and with the background of careful study of the literature of his subject, the author takes up such topics as "The Town's Relationships and Prospects," "The Town's People," "The Town's Tools," and "The Town's Program." The most salient characteristic of his style is its persuasiveness, and because the book is so obviously written by one who knows and cares about the little town, its honest criticisms and clear-sighted suggestions ought to find cordial welcome among little-townsmen. Several copies of this volume should be in every small-town library, and where there is no library, in the hands of the more public-spirited citizens.

For the student of American institutions, this volume is of significance for two reasons: First, because it is a contribution to the more

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

exact and discriminating classification of social and political units. The little town cannot be discussed from the point of view of either municipal or rural problems—it is a distinct phenomenon. And secondly, because the author has set a conspicuously good example in his recognition of the importance of psychology in the study of social and community questions. The chapter on "The Town's People" would delight the heart of Graham Wallas. Such studies as this, whether one can agree with all of its conclusions or not, are among the most hopeful signs of the times.

FREDERICK M. ELIOT.

St. Paul, Minn.

The Royal Government in Virginia. By PERCY SCOTT FLIPPIN, Ph.D., Associate Professor of History in Hamilton College. (New York: Columbia University, Longmans, Green and Company, Agents; London: P. S. King and Sons, Ltd. Pp. 393.)

This study is Number 1 of Volume LXXXIV (Whole Number 194) of "Studies in History, Economics and Public Law," edited by the faculty of political science of Columbia University. The title, although not critically suggestive of the contents, is sufficiently so to justify its use. In eight chapters entitled "English Background," "The Governor," "The Council," "The House of Burgesses," "The Land System and its Officials," "The Financial System and Administration," "The Judicial System and Administration," and "The System of Defence," we are given a very interesting account of the official organization of Virginia, both as relates to England and to the Colony. In truth, much of the ground of the work has never been traversed before, and Dr. Flippin has shown much industry in consulting all the authorities available in print or manuscript in this country.

Dr. Flippin's work has the merit of originality and differs from all others relating to Virginia government in two respects: First, in compass of time he covers a much longer period (1624–1776) than any other writer. Dr. Bruce, a recognized authority in economics and social studies, has confined himself exclusively to the seventeenth century. Secondly, a wealth of information from the British point of view is rendered for the first time accessible to those interested in Virginia history.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

In what may be considered his preliminary chapter, "English Background," the relations of the Colony to the English officials are briefly but critically considered. Of course, Virginia was only one of the provinces of the realm, and the same governmental machinery operated on other colonies as well.

In his second chapter, entitled "The Governor," Dr. Flippin makes himself very interesting. He goes into detail for the very good reason that the governor was the center around which the whole colonial system revolved. This does not mean that the governor was an autocrat, for in most instances he was content to play the part of a mere figurehead, though in the cases of positive characters like Culpepper and Alexander Spotswood the governor was tempted by his apparent power to dominate affairs, with the inevitable result of dissensions and domestic turmoil. The chapter on "The Council," though not as minute or extended as the chapter on the governor, is perhaps more interesting. This body which shared with the governor in all his authority as an executive, a branch of the legislature, and a supreme court, constituted at the same time a kind of personal link between the English governor and the Virginia house of burgesses. For while its members were appointed by the authorities in England, they were selected from the body of the people of Virginia.

Of the remaining chapters of Dr. Flippin's work, we may truthfully say that they contain so much valuable information that no one will hereafter have the hardihood to write of Virginia without making some reference to their excellent contents.

It is not surprising that about a work of so much detail some criticisms may be advanced. There is a lack of definiteness in some places, and Dr. Flippin's figures and references are not always accurate. Sometimes some of his statements need decided modification.

The work has an excellent bibliography and index.

LYON G. TYLER.

William and Mary College.

The Quit-Rent System in the American Colonies. By BEVERLEY W. BOND, JR. With an introduction by Charles M. Andrews. (New Haven: Yale University Press. Pp. 492.)

This monograph is a study of an institution little understood and never before comprehensively presented, and will be welcomed by all students of colonial history.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

According to Professor Bond, the quit rent "was really a feudal payment from freeholders whose tenure was in free and common socage." As such it roused opposition throughout the colonies. Part of this opposition was based on the colonial theory that the tenure of land should be free; part from objection to the use to which the proceeds of the rent were put; and part came from the actual financial burden.

Professor Bond has, from an examination of all available sources, with infinite care and thoroughness, unravelled the complexities of the quit-rent problem in each of the English colonies in America. In the corporate colonies of New England the rent was never collected, and the ill-advised attempt of Andros showed the impossibility of such an undertaking. Nor was there much better success in the proprietary grants in New England. Better results, however, attended the collections in the Culpepper-Fairfax grant in Northern Neck, Virginia, owing to the tact of Fairfax, but the proprietaries of the Granville grant in North Carolina had a stormy time. The proprietaries of New Jersey roused great opposition by their unsuccessful attempts at collection. In Pennsylvania and Maryland quit rents proved a profitable source of revenue—from Maryland the returns were as high as £9,000 in 1759 and averaged over £5,000 from 1753. In the royal provinces, with the exception of New York, quit rents provided an important and valuable source of revenue.

The total income from all the colonies, averaging £19,000 at the time of the Revolution, was large enough to find a place in the estimates of the English exchequer. Its importance lay in the use to which it might be put—freeing royal officials from the control of the colonial assemblies, meeting emergencies for which the colonies would not or could not appropriate monies, and attempting to bring about a more uniform system of land tenure.

Not the least valuable part of Professor Bond's book is his chapter on "British Control of Quit Rents," where the system for collection and supervision by the government is described. As in so many of the schemes prepared for colonial control, a good system was established, which lapsed largely through inefficient administrators. An exception was William Blathwaite, auditor general from 1660–1717, who organized an excellent system and administered it with wisdom and sympathy for the colonies.

EVERETT KIMBALL.

Smith College.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

The Redemption of the Disabled. By GARRARD HARRIS, with an introduction by Col. Frank Billings, U. S. A. (New York: D. Appleton and Company. Pp. 308).

In this well-illustrated volume of 308 pages, Mr. Harris has set forth, in satisfactory sequence, the progress made by this and other countries in the important work of rehabilitating men disabled through wounds or disease in the great war.

Not until this war have governments recognized that even the best surgery is largely futile unless followed by hospital processes through which the injured part is taught measurably to perform its former functions, and by "job education" through which the man is put back into industry trained to be efficient notwithstanding his handicap.

In the first half of the book is given a clear summary of the progress made by the Allies, and also by Germany, in this practically new type of rehabilitation work. The second half is devoted to a well presented statement of what the United States is doing for its disabled men. This national program includes, in the hospitals, extensive provision for occupational therapy to secure quick recovery and functional flexibility and for pre-vocational training to awaken a man's interest. This is succeeded by definite vocational training, when needed, provided through the federal board for vocational education which, under an act passed in June, 1918, is responsible for placing men disabled in the service back in industry and for giving them, when necessary, the training essential for effective earning.

Using the experience of the belligerent nations with their disabled soldiers as a basis for argument, Mr. Harris devotes the last two chapters of his excellent book to urging a wider task of "redemption," that of the vastly greater body of men and women injured in occupations or disabled through occupational disease.

JAMES P. MUNROE.

Federal Board for Vocational Education.

The Politics of Industry, a Foot-note to the Social Unrest. By GLENN FRANK. (New York: The Century Company. Pp. 214.)

It is to the American business man that Mr. Frank addresses himself in the papers, originally published in the *Century Magazine*, now collected under the above title. He approaches his task not without

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

a proper show of respect for his audience. That "the statesmanship or stupidity of business men is of more social significance than the statesmanship or stupidity of politicians" is the key-note of his introduction. Again, he observes, "I think I could name twenty leaders of American business and industry who at this moment hold it within their power to determine the course of industrial relations in this country for the next twenty-five years at least." If this doubtless unconscious flattery of his audience will help him to hold its attention, the political scientist may forbear to criticize, for Mr. Frank has a message that business men should hear.

"The labor problem today is not a problem of workingman-psychology, as the attitude and policy of many men would seem to indicate they think. The labor problem is a constitutional problem." This is his message. It is a message for political scientists as well as for business men. Mr. Frank is not unaware of the importance of human nature in the politics of industry. There would be a Red Left, he says, even in Utopia. But the problems of industrial politics cannot be solved merely by technical skill in the art of handling men. There must also be competence in the science of organizing them. Heretofore this work has been left to the professional labor organizer. Now, urges Mr. Frank, it behooves the captain of industry to become his own labor leader. And so he inculcates the study of that modern development of scientific management, in which the pioneers have been such men as Edward A. Filene and John D. Rockefeller, Jr., and for the convenience of his readers reprints portions of the Whitley reports.

Mr. Frank belongs to the school of Thomas Carlyle. He is an adherent of the "great man" theory of social progress. He sketches with fine feeling the implications of *richesse oblige* in the capitalistic state. He does more than that. He pleads eloquently for acceptance by business men of the burdens of leadership in the task of establishing constitutional government in industry. But the new age requires from the captains of industry more than mere leadership in industrial politics. It also requires fellowship. At this point Mr. Frank's plea can be heard only faintly. It is withal a timely and well-directed piece of work. Of the books of this type, which popular interest in the problems of "reconstruction" has evoked, the reviewer likes this the best.

A. N. Holcombe.

Harvard University.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

MINOR NOTICES

In *The Freedom of the Seas* (E. P. Dutton & Co., pp. 262) Louise Fargo Brown has endeavored to trace the principles of sea freedom and the attempts made to secure it from the days of the Rhodian law to the end of the world war. The author has not undertaken an exhaustive study of the subject, but has sketched a broad view of the entire field. The examples cited go to show that at all times sea law by whomsoever made has failed when pressure has been put upon it "not alone because there was no general agreement as to what was the law, but because there was no generally recognized tribunal to administer it, and no generally recognized police to enforce it." Privileges which nations demanded as neutrals they denied, upon becoming belligerents, to others. The "freedom of the seas" is shown to have been a useful phrase capable of almost any meaning which the maritime nation in power for the moment chose to put upon it. In spite of the failures of international experiments in the past Miss Brown reaches the conclusion that the only hope for genuine sea freedom lies in international control through a league of nations.

The various publications prepared for the recent Massachusetts Constitutional Convention are now ready and may be procured from the State Library, Boston, Mass. The thirty-seven bulletins on current public questions have been reprinted in two volumes, making 1250 pages in all. These two volumes (which are not sold separately) may be had for $2.00, postage extra. They contain many bulletins of current interest, e.g., The Procedure of Constitutional Conventions, State Budget Systems, Biennial Sessions, Old Age Pensions, The Initiative and Referendum, The Short Ballot, Preferential Voting, Proportional Representation, Municipal Ownership, County Government, and Debt Limits. Each bulletin is provided with a bibliography.

Of the convention's Debates, the first two volumes have been published. Volume II is devoted wholly to the discussion of the Initiative and Referendum (pp. 1086). This volume is sold at $1.00, postage extra, and will be found of great value both to teachers of political science and to libraries.

A Short Treatise on Canadian Constitutional Law, by A. H. F. Lefroy, with an historical introduction by Professor W. P. M. Kennedy is published by The Carswell Company (Toronto, pp. 322). Mr. Lefroy's more exhaustive work on the constitutional jurisprudence of Canada is

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

well known to special students of this subject, but the present volume will serve a very useful purpose in making accessible to Americans the outlines of a system which affords many interesting contrasts with their own. The arrangement of the book is both unique and effective. The author first states twenty-seven "leading fundamental propositions," each embodying some important constitutional rule. Then he elaborates each of these with copious comment and references to the judicial decisions. Professor Kennedy's introduction is a noteworthy feature of the book. It is admirable both in its proportions and in the good judgment with which controverted historical questions are handled.

Professor W. S. Wallace of McMaster University (Toronto) has edited for the University of Toronto Studies in History and Economics *The Maseres Letters, 1766–1768* (Oxford University Press, Canadian Branch). The author of these letters, Francis Maseres, was a Londoner of Huguenot descent who became a barrister and ultimately was appointed attorney-general of Quebec. His letters during the period of his incumbency throw a good deal of light upon questions of colonial administration and Professor Wallace has added a great many illuminating footnotes. The book is a model, both of editing and typography.

A little volume containing articles reprinted from "The Round Table" is published by The Macmillan Company under the title *Bolshevik Aims and Ideals* (pp. 89). These articles present a lucid statement of the essential facts in Bolshevist development and explain what headway has been made against it.

American Democracy from Washington to Wilson, edited by John H. Finley (Macmillan, pp. 339) contains the most striking addresses of Washington, Webster, Lincoln, Roosevelt and Wilson. The last of these, however, gets a good deal more space than all the others put together. As a sourcebook for schools and study clubs the volume will undoubtedly be found very useful.

The Century Company has issued a new and revised edition of Goodnow's *Municipal Government*. The work of revision has been well performed by Professor Frank G. Bates.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Students of police administration and of social ethics need no introduction to the volume on *Punishment and Reformation* by Frederick H. Wines which has been a standard in its own field for nearly twenty-five years. A new and revised edition of the book, with some important additional chapters, has been issued under the editorship of Winthrop D. Lane (Thomas Y. Crowell Co.). The original chapters have been thoroughly gone over and brought into touch with present-day opinion on correctional matters, but an even more valuable service is that which Mr. Lane has rendered by his own contributions. These new chapters deal with such subjects as the treatment of offenders during confinement and after release, the principles and practice of inmate self-government (including the Osborne experiments at Sing Sing), and the environmental factor in criminality. The book is well printed and thoroughly indexed.

A school textbook on *Philippine Civics*, by Justice George A. Malcolm of the supreme court of the Philippine Islands, assisted by Maximo M. Kalaw of the University of the Philippines, has been published by D. Appleton and Company (pp. 183). This includes a short introduction on "Government in General," ten chapters on functions, ten on organization (including central, provincial and municipal government), and a brief conclusion on "Philippine Ideals."

In the Iowa Economic History Series, published by the State Historical Society, there has been issued a *History of Economic Legislation in Iowa* (pp. 386). This presents a general account of legislation relating to internal improvements, the conservation and development of natural resources, the regulation of business, labor, taxation, and the power of municipal corporations to regulate economic conditions. On some topics, more detailed monographs have previously appeared in the same series.

A volume on *Organized Self-Government*, by Professor Edgar Dawson of Hunter College, is being published by Messrs. Henry Holt & Co. It is intended for use in secondary schools.

Why We Fought by Capt. Thomas G. Chamberlain (Macmillan) is an earnest plea for the League of Nations by one who endeavors to set forth the soldier's attitude as he found it to be. The volume is made up of speeches delivered by the author during the past few months.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

RECENT PUBLICATIONS OF POLITICAL INTEREST

BOOKS AND PERIODICALS

CLARENCE A. BERDAHL

AMERICAN GOVERNMENT AND PUBLIC LAW

Books

Barnes, Uriah, ed. Barnes' federal code: containing all federal statutes of general and public nature now in force. Pp. civ + 2831. Charleston, W. Va., Virginian Law Book Co.

Cammen, Leon. Government ownership of public utilities in the United States. Pp. 142. N. Y., McDevitt-Wilson.

Cole, Arthur C. The era of the civil war, 1848–1870. Centennial history of Illinois, Vol. III. Pp. 499. Springfield, Ill., Centennial Commission.

Flippin, Percy Scott. The royal government in Virginia, 1624–1775. (Columbia Univ. Studies in Pol. Sci., Vol. 84, No. 1.) Pp. 393. N. Y., Columbia Univ. Press.

Hoffman, Frederick L. A plan for a more effective federal and state health administration. San Francisco, Commonwealth Club.

Hill, David Jayne. Present problems in foreign policy. Pp. 361. N. Y., D. Appleton & Co.

Kalaw, Maximo. Self-government in the Philippines. N. Y., Century Co.

Scott, James Brown, ed. Judicial settlement of controversies between states of the American union. 2 vols. N. Y., Oxford Univ. Press.

Willoughby, William Franklin. Government organization in war time and after. N. Y., D. Appleton & Co.

Articles

Anarchy. Legislation against anarchy. *Zechariah Chafee, Jr.* New Repub. July 23, 1919.

Budget. The new federal budget plan, as embodied in the Good-McCormick bill in Congress. *J. P. Chamberlain.* Econ. World. July 12, 1919.

———. The desirability of adapting a federal budget system to our government finances. Econ. World. Sept. 6, 1919.

———. A national budget system. I, II. *Henry L. Stimson.* World's Work. Aug., Sept., 1919.

———. Expert comment on the Good national budget bill. I. *R. E. Miles.* II. *Lent D. Upson.* III. *Thomas R. Lill.* IV. *Frederick P. Gruenberg.* V. *H. M. Waite.* Nat. Mun. Rev. Aug., 1919.

———. The present status of the executive budget in the state governments. *A. E. Buck.* Nat. Mun. Rev. Aug., 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Disloyalty. Disloyalty in two wars. *W. A. Dunning.* Am. Hist. Rev. July, 1919.

Health Insurance. Political expediency as well as social justice calls for action on health insurance. *Frederick M. Davenport.* Am. Labor Legis. Rev. June, 1919.

———. Personal liberty and compulsory health insurance. *S. Finney.* Am. Labor Legis. Rev. June, 1919.

Judicial Decisions. Five to four decisions of the Supreme Court of the United States. *Fred A. Maynard.* Central Law Jour. Sept. 19, 1919.

Judicial Organization. The selection, tenure and retirement of judges. *James Parker Hall.* Jour. Am. Judicature Soc. Aug., 1919.

Judicial Recall. Report of the committee to oppose judicial recall. *Rome G. Brown and others.* Am. Bar Assoc. Jour. July, 1919.

Labor. International labor standards and their possible enforcement in the United States. *George W. Wickersham.* Proc. Acad. Pol. Sci. July, 1919.

———. International labor legislation and how it can be enforced in the United States. *Abram I. Elkus.* Proc. Acad. Pol. Sci. July, 1919.

———. The power of the United States under the Constitution to enter into labor treaties. *J. P. Chamberlain.* Proc. Acad. Pol. Sci. July, 1919.

———. Labor in politics. *David I. Walsh.* Forum. Aug., 1919.

League of Nations. The new national processes and organs required for adopting and effectuating the covenant. *Alpheus Henry Snow.* Proc. Acad. Pol. Sci. July, 1919.

———. The covenant necessitates a new organ of government. *Alpheus H. Snow.* League of Nations Mag. July, 1919.

———. The constitution or league of nations; which? *C. A. Hereshoff Bartlett.* Am. Law Rev. July–Aug., 1919.

———. Constitutionality of the covenant of the league of nations. *H. St. George Tucker.* Central Law Jour. Aug. 1, 1919.

Legislation. Legislation by governor and judges. *William L. Jenks.* Michigan Hist. Mag. Apr., 1919.

———. Report of the special committee on legislative drafting. *William Draper Lewis and others.* Am. Bar. Assoc. Jour. July, 1919.

Maritime Policy. American maritime policy in the past and for the future. *James A. Farrell.* Econ. World. June 28, 1919.

Military Justice. Some lessons for civilian justice to be learned from military justice. *John H. Wigmore.* Jour. Crim. Law and Crim. Aug., 1919.

———. Courts-martial. *Donald B. Creecy.* Jour. Crim. Law and Crim. Aug., 1919.

Neutrality. The neutrality board. *James Brown Scott.* Am. Jour. Inter. Law. Apr., 1919.

Ohio. Party complexion and political experience. Civic Affairs. Aug., 1919.

Philippines. The new Philippine government. *Maximo M. Kalaw.* Am. Pol. Sci. Rev. Aug., 1919.

———. The Philippine budget system. *Maximo M. Kalaw.* Am. Econ. Rev. Sept., 1919.

———. Recent policy towards the non-Christian people of the Philippines. *Maximo M. Kalaw.* Jour. Inter. Relations. July, 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Police Power. The national police power under the commerce clause of the constitution (concluded). *Robert Eugene Cushman.* Minnesota Law Rev. June, 1919.

Political Parties. The populist party in Indiana (concluded). *Ernest D. Stewart.* Indiana Mag. of Hist. Mch., 1919.

———. Wanted—a ballot box. *Allen McCurdy.* Nation. July 5, 1919.

———. New facts about Theodore Roosevelt. II. The break with Mr. Taft and the founding of the Progressive party. *Lawrence F. Abbott.* World's Work. Aug., 1919.

Popular Sovereignty. Popular sovereignty and the colonization of Kansas from 1854 to 1860. *William O. Lynch.* Miss. Valley Hist. Rev. May, 1919.

Public Opinion. America's fight for public opinion. *Guy Stanton Ford.* Minnesota Hist. Bull. Feb., 1919.

———. The fight for public opinion. *Thomas F. Moran.* Miss. Valley Hist. Rev. May, 1919.

Primaries. A new type of direct primary. *Ralph S. Boots.* Nat. Mun. Rev. Sept., 1919.

Railroad Problem. A live and let live railroad policy. *Howard Elliott.* Forum. June, 1919.

———. The railway problem. *Albert B. Cummins.* Rev. of Revs. July, 1919.

———. Government ownership and individual enterprise—the views of Charles M. Schwab. *Donald Wilhelm.* Scribner's. July, 1919.

———. Suggestions for a sound solution of the railroad problem. *Robert S. Lovett.* Econ. World. Aug. 2, 1919.

———. A railroad symposium. *Glenn E. Plumb, Walker D. Hines, and others.* Nation. Aug. 16, 1919.

———. Federal operation of railroads during the war. *Frank Haigh Dixon.* Quar. Jour. Econ. Aug., 1919.

———. Solving the railroad problem. *John K. Barnes.* World's Work. Sept., 1919.

State Administration. Problems of civil administration. *Governor Frank O. Lowden.* No. Am. Rev. Aug., 1919.

State Constitutions. Six constitutions of the far northwest. *John D. Hicks.* Miss. Valley Hist. Rev. May, 1919.

State Legislatures. The work of the reconstruction legislatures. Nat. Mun. Rev. July, 1919.

Taxation. Indirect encroachment on federal authority by the taxing powers of the states. VIII. *T. R. Powell.* Harvard Law Rev. June, 1919.

Treaties. The constitutionality of treaties. *Quincy Wright.* Am. Jour. Inter. Law. Apr., 1919.

———. Presidential treaty-making. *Anonymous.* Nation. Sec. II, July 26, 1919.

War Control. Government control of sugar during the war. *Joshua Bernhardt.* Quar. Jour. Econ. Aug., 1919.

Webb Law. The Webb law, its scope and operation. *William Notz.* Jour. Pol. Econ. July, 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Wilson. From Jefferson to Wilson. *John Corbin.* No. Am. Rev. Aug., 1919.

———. Has Wilson failed? An examination of the liberal outlook. *Glenn Frank.* Century. Aug., 1919.

———. Has President Wilson failed? *H. Wilson Harris.* Contemp. Rev. Aug., 1919.

———. Wilsons Persönlichkeit und Haltung. *Günther Thomas.* Deutsche Revue. Jan., 1919.

Woman Suffrage. The Susan B. Anthony amendment—effect of its ratification on the rights of the states to regulate and control suffrage and elections. *Emmet O'Neal.* Central Law Jour. Sept. 5, 1919.

FOREIGN AND COMPARATIVE GOVERNMENT

Books

Adams, George Burton. The British empire and a league of peace, together with an analysis of federal government, its functions and its method. Pp. 115. N. Y., G. P. Putnam's Sons.

Adams, J. Preussisches Staatsrecht. II. Verwaltungsrecht. Verfassungsurkunde. Pp. viii + 120. Bonn, L. Röhrscheid.

Bachem, Carl. Politik und Geschichte der Zentrumspartei. Pp. 267. Köln, J. P. Bachem. 1918.

Barthelemy, Joseph. Le gouvernement de France. Pp. 240. Paris, Payot et C^ie^.

Bazille, Wilh. Verfassungsurkunde des freien Volksstaats Württemberg vom 26. IV. 1919. Stuttgart, W. Kohlhammer.

Bergwiese, Hans. Die politischen Parteien Deutschlands. Betrachtungen über ihre Grundlagen und Ziele. Pp. 22. Hannover, Residenzverlag Friedrich Czeviertnia.

Binding, Karl. Die staatsrechtliche Verwandlung des deutschen Reiches. Pp. 50. Leipzig, E. Reinicke.

Bolshevik aims and ideals, and Russia's revolt against bolshevism. N. Y., Macmillan Co.

Brandenburg, E. Wie gestalten wir unsere künftige Verfassung. Pp. 57. Leipzig, Quelle und Meyer.

Bubendey, Hanns. Hamburgische Verfassungsfragen. Pp. 24. Hamburg, F. W. Rademacher.

Buisson, Ferdinand. Les Bolchéviki, 1917–1919. Faits, documents, commentaires. Paris, Libr. Fischbacher.

Carver, Thomas Nixon. Government control of the liquor business in Great Britain and the United States. (Carnegie Endowment for International Peace. Preliminary Economic Studies of the War, No. 13.) Pp. v + 192. N. Y., Oxford Univ. Press.

Chopin, Jules. L'Unité de la politique italienne. Paris, Editions Bossard.

Czernin, Ottokar, Graf. Über die Politik während des Weltkrieges. Wien, M. Perles. 1918.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Day, J. P. Public administration in the highlands and islands of Scotland. Pp. vii + 407. London, Univ. of London Press.

Demorgny, Gustave. Les partis politiques et la révolution russe. Pp. 272. Paris, Payot et C^ie^.

Devine, Edward T., and *Brandt, Lilian.* Disabled soldiers and sailors pensions and training. (Carnegie Endowment for International Peace, Preliminary Economic Studies of the War, No. 12.) Pp. vii + 471. N. Y., Oxford Univ. Press.

Diersch, Victor Camillo. Die geschichtliche Entwicklung des Landtagswahlrechts im Königreich Sachsen. Pp. 334. Leipzig, W. Schunke.

Eltzbacher, Paul. Die neuen Parteien und ihre Programme. Pp. 63. Berlin, A. Scherl.

Gehrig, Hans. Deutsche Staatswissenschaft und Wirtschaftspolitik im 19. Jahrhundert. Berlin, Phönix-Verlag.

Gosses, I. H. en *Japikse, N.* Handboek tot de Staatkundige Geschiedenis van Nederland. Pp. cxxviii + 524. The Hague, Martinus Nijhoff. 1918.

Halewyck, Michel. La charte coloniale. Commentaire de la loi sur le gouvernement du Congo belge. Tome III. Bruxelles, Weissenbruch.

Hauriou, Maurice. Précis de droit administratif et de droit public. Neuvième édition. Paris, Tenin.

Heilfron, Geh. Just.-R. Die deutsche Nationalversammlung im Jahre 1919 in ihrer Arbeit für den Ausbau des neuen deutschen Volksstaates. Pp. 96 + 960. Berlin, Norddeutsche Buchdr. u. Verlagsanstalt.

Herzl, Thdr. Der Judenstaat. Pp. 88. Berlin, Jüd. Verlag. 1918.

Hirschfeld, Magnus, u. *Mann, Franziska.* Was jede Frau vom Wahlrecht wissen muss! Pp. 32. Berlin, A. Pulvermacher & Co. 1918.

Hübner, Rud. Was verlangt Deutschlands Zukunft von dem neuen Reichsverfassung? Pp. 24. Halle, W. Knapp.

Josse, Pierre. Le nouveau système des impôts directs d'etat en France. Paris, Ernest Sagot et C^ie^.

Kelsen, Hans. Die Verfassungsgesetze der Republik Deutschösterreich. Pp. viii + 117. Wien, F. Deuricke.

Leyret, Henry. Le gouvernement et le parlement. Pp. 115. Paris, F. Alcan.

Logis, George Clenton. Bulgarian problems and politics. N. Y., George H. Doran Co.

Mahler, Karl. Die Programme der politischen Parteien in Deutschland nach der Kriege. Pp. iv + 80. Leipzig, O. Gracklauer.

México revolucionario. A los pueblos de Europa y América, 1910–1918. Colección de documentos relativos a las últimas revoluciones mexicanas. Pp. 208. Habana, Imp. Espinosa Ferré y Compañía.

Probus. Constitution syndicale de la France. Pp. 64. Paris, B. Grasset.

Régime politique et administratif dans la Pologne prusienne. IV^e^ volume, 1^er^ fascicule de l'Encyclopédie polonaise. Pp. 518. Fribourg-Lausanne. 1918.

Salomon, Dr. Alice. Die deutsche Frau und ihre Aufgaben im neuen Volksstaat. Leipzig u. Berlin, B. G. Teubner.

Salomon, Felix. Die neuen Parteiprogramme mit den letzten alten Parteien zusammengestellt. Leipzig, B. G. Teubner.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Salzedo, A. Dommages de guerre. Lois, décrets, législation, commentaire. Pp. 120. Paris, M. Giard et E. Brière.

Samuel, René. Le parlement et la guerre, 1914–1915. Paris, Georges Roustan.

Scheffen-Döring, Luise. Das politische Wahlrecht. Berlin, Furche-Verlag.

Schüssler, Dr. Wilhelm. Das Verfassungsproblem im Hapsburgerreich. Stuttgart u. Berlin, Deutsche Verlags-Anstalt. 1918.

Söderhjelm, Henning. Der rote Aufruhr in Finnland im Jahre 1918. Eine Schilderung auf Grundlage offizieller Urkunden. Berechtigte Übersetzung von Johannes Öhquist. Leipzig, Quelle und Meyer. 1918.

Saldevilla, Fernando. El año político 1918. Año XXIV. Pp. 492. Madrid, Imp. y Enc. de Julio Cosano.

Stewart, Bryce M. The employment service of Canada. Bulletin No. 32 of the Depts. of Hist. and Pol. and Econ. Science in Queen's University, Kingston, Ontario, Canada.

Thiers, André. Administrateurs et administrés. Paris, Bernard Grasset.

Tommasini, Giovanni. Note di organizzazione parlamentare—I servizi interni dei Parlamenti inglese e francese. Pp. 60. Milano, Società Editrice Libraria.

Turner, Edward R. Ireland and England. N. Y., Century Co.

Vignon, Louis. Une programme de politique coloniale. Les questions indigènes. Pp. xlv + 570. Paris, Plon-Nourrit et C^ie^.

Weck, Hermann. Die neue Reichsverfassung. Berlin, Carl Heymanns Verlag.

Yukio, Ozaki. The voice of Japanese democracy. Pp. 108. Shanghai, Kelly & Walsh.

Articles

Australia. Australia: Constitutional revision. Round Table. Sept., 1919.

Austria. Die Länderautonomie in Österreich. *Karl Hugelmann.* Zeitschrift für Politik. Heft 1/2, 1918.

Bavaria. The soviet experiment in Bavaria. *Leo Wulfsohn.* New Europe. June 26, 1919.

Brazil. L'organisation constitutionnelle du Brésil (*suite*). *F. P. Renaut.* Rev. d'Hist. Dip. No. 1, 1919.

British Budget. Le nouveau budget britannique. *Fernand Faure.* Rev. Pol. et Parl. Mai, 1919.

———. An historic budget. *J. A. R. Marriott.* Nine. Cent. June, 1919.

———. A fairer income tax. *J. E. Allen.* Fort. Rev. July, 1919.

British Empire. Review of legislation, 1917. Jour. Comp. Legis. July, 1919.

British Politics. The origin of English political parties. *Wilbur C. Abbott.* Am. Hist. Rev. July, 1919.

———. The inner cabinet from 1739 to 1741. *R. R. Sedgwick.* English Hist. Rev. July, 1919.

———. The rise and fall of the coalition. *Charles F. G. Masterman.* Nine. Cent. June, 1919.

———. Labour and the state. *J. B. Firth.* Fort. Rev. Aug., 1919.

British War Measures. The press censorship. *Major-General Sir Charles Callwell.* Nine. Cent. June, 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

British War Measures. Emergency administration. *F. W. Rafferty.* Conemp. Rev. June, 1919.

———. British emergency legislation. *H. Geraldine Lester.* California Law Rev. July, 1919.

China. China's constitutions. (III.) The constitution of Yuan Shih-kai. *L. R. O. Bevan.* Chinese Soc. and Pol. Sci. Rev. Mch., 1919.

———. The Shanghai mixed court. *Sydney Barton.* Chinese Soc. and Pol. Sci. Rev. Mch., 1919.

———. La réforme judiciare en Chine. *Tsien-Tai.* Rev. Pol. et Parl. Juin, 1919.

———. A brief survey of the Chinese judiciary. *W. H. Y.* Chinese Soc. and Pol. Sci. Rev. June, 1919.

Constitution-Making. A century of European constitution-making. *Fredric Austin Ogg.* Rev. of Revs. July, 1919.

Cuba. Cuba y el nacionalismo de Cataluña. *Fernando Ortiz.* Revista Bimestre Cubana. Nov.–Dec., 1918.

———. La crisis política cubana. Sus causas y remedios. *Fernando Ortiz.* Revista Bimestre Cubana. Jan.–Feb., 1919.

Denmark. Det danske Program for Nordslesvigs Genforening med Danmark. *Aage Friis.* Tilskueren. Juni, 1919.

Egypt. Egyptian nationalism. Edin. Rev. July, 1919.

France. Trials in the courts of France. *Frederic Allain.* Bench and Bar. Feb., 1919.

———. Courts-martial in France. *Arthur Page.* Blackwood's Mag. June, 1919.

———. Nos impôts directs et l'après-guerre. *A. Mamelet.* Rev. Pol. et Parl. Juin, 1919.

———. La préface d'un budget régulier. *L. L. Klotz.* Rev. Pol. et Parl. Juillet, 1919.

———. The reconstruction of northern France. *Herbert Adams Gibbons.* Harper's. July, 1919.

German Government. The new government in Germany. *Walter James Shepard.* Am. Pol. Sci. Rev. Aug., 1919.

———. Alte und neue Wahlverfahren. Kritik und Reformvorschläge. *H. von Recklinghausen.* Zeitschrift für Politik. Heft 1/2, 1918.

———. Zur Frage der Einführung parlamentarischer Regierung im Reiche. *Hans Gmelin.* Zeitschrift für Politik. Heft 3, 1918.

———. Vom Bundesstaat zum Einheitsstaat. *Richard Fester.* Deutsche Rundschau. Jan., 1919.

———. Verfassung und Verwaltung der deutschen Republik. *Friedrich Meinecke.* Die Neue Rundschau. Jan., 1919.

———. Das Wahlrecht zur Nationalversammlung. *Adolf Tecklenburg.* Archiv für Rechts- und Wirtschaftsphilosophie. Jan., 1919.

———. Republiken Tyskland. *Arthur Christensen.* Gads Danske Magasin. Jan., 1919.

———. Die Grundfragen der Reichsverfassung. *Fritz Stier-Somlo.* Deutsche Arbeit. Feb., 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

German Government. Die Nationalversammlung und die Zukunft Deutschlands. *Richard Fester.* Deutsche Rundschau. März, 1919.

Germany in Revolution. Germany in revolution. *Victor S. Clark.* Atlan. M. July, 1919.

———. The second German congress of soviets. *Eugene S. Bagger.* Nation. Sec. II, July 12, 1919.

———. The preservation and development of democracy in Germany. *Philipp Scheidemann.* (Deutsche Allgemeine Zeitung.) Living Age. Aug. 16, 1919.

———. Den tyske revolution og Europa. *Edward Bernstein.* Samtiden. Hefte 6, 1919.

Hungary. Decrees of the Hungarian soviet government. Nation. Sec. II, July 12, 1919.

India. Constitutional reform in India: possibilities and pitfalls. *H. E. A. Cotton.* Contemp. Rev. June, 1919.

———. Franchise and functions in India. *Sir J. D. Rees.* Nine. Cent. July, 1919.

———. Cause and effect in India. *E. Bruce Milford.* Fort. Rev. July, 1919.

———. Constitutional reform in India. Round Table. Sept., 1919.

Ireland. Sinn Fein: past, present and future. *Herbert Moore Pim.* Nine. Cent. June, 1919.

———. Ireland and England. *Right Hon. the Earl of Arran.* Nine. Cent. July, 1919.

———. Ireland versus "Ulster." *Ernest A. Boyd.* Century. Sept., 1919.

Italy. La funzione consultiva del consiglio di stato nella preparazione delle leggi. *Antonio Mosconi.* Nuova Antologia. 1 Giugno, 1919.

———. The political situation in Italy. I. II. *A French Contributor.* Nemesis in Italy. New Europe. June 19, June 26, July 31, 1919.

Japan. Some thoughts on the political development of the Japanese people. *David S. Spencer.* Jour. Inter. Relations. July, 1919.

Nationalisation. Nationalisation. *J. H. Balfour-Browne.* Nine. Cent. June, 1919.

———. Railway nationalisation. *W. M. Acworth.* Quar. Rev. July, 1919.

———. Nationalisation as a remedy. Round Table. Sept., 1919.

New Zealand. New Zealand: I. The Samoan mandate. II. The licensing poll. III. The province of the state. Round Table. Sept., 1919.

Norway. Höire. *Nils Vogt.* Samtiden. Hefte 5, 1919.

Poland. Die neuen Richtpunkte für die Organisation Polens. *Richard Schmidt.* Zeitschrift für Politik. Heft 3, 1918.

———. Poland, the verge of bolshevism. *Vernon Kellog.* Atlan. M. July, 1919.

Prussia. Territoriale Neugestaltung des Reiches und Zerstückelung Preussens. *Wirkl. Legationsrat Dr. Trautmann.* Preussische Jahrbücher. Jan., 1919.

Russia. True democracy and progress. Some thoughts on the Russian soviet system. *Victor S. Yarros.* Open Court. June, 1919.

———. The Russian problem and bolshevism. *Baron Rosen.* No. Am. Rev. Aug., 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Russia. Observations on soviet government. *R. M. Story.* Am. Pol. Sci. Rev. Aug., 1919.

———. The bolsheviki versus the social revolutionists. *B. Ginzburg.* Nation. Sec. II, Aug. 9, 1919.

———. The Russian people and the soviets (with chart). *Jerome Davis.* Nation. Sec. II, Sept. 6, 1919.

Scotland. Home rule. *One of the Onlookers.* Scottish Rev. Summer, 1919.

———. Towards the commonwealth. *William Diack.* Scottish Rev. Summer, 1919.

Sweden. La vie politique en Suède. *Virgile Pinot.* Rev. Pol. et Parl. Juin, 1919.

Turkey. The Sultan and the caliphate. *P. Tonopetean.* New Europe. July 17, 1919.

INTERNATIONAL RELATIONS

Books

Agnelli, G. et *Cabiati, A.* Fédération europeene ou ligue des nations? Pp. 134. Paris, Giard et Brière.

Baun, Rudolf. Die tschechoslowakischen Ansprüche auf deutsches Land. Pp. 24. Wien, Alfred Hölder.

Barclay, Sir Thomas. Collapse and reconstruction: European conditions and American principles. Pp. x + 315. Boston, Little, Brown & Co.

Beltrán Rózpide, R. Nuevas nacionalidades en Europa, con un mapa. Estudio geográfico-político. Pp. 55. Madrid, Imp. del Patronato de Huérfanos de Intendencia e Intervención militares.

Bendix, Ludwig. Völkerrechtsverletzungen Grossbritanniens. (Zeitschrift für Völkerrecht, Ergänzungsheft 3 zu Band XI). Breslau, J. U. Kern's Verlag.

Brandes, Georg. Sönderjylland under pröjsisk Tryk. Pp. 148. Köbenhavn, S. Gyldendalske Forlag.

Brown, Louise Fargo. The freedom of the seas. Pp. xvi + 262. N. Y., E. P. Dutton & Co.

Buisson, F., Brunhes, J., Auland, J., Brun, Charles, Leroy, Maxime, Ernest-Charles, J., et *Hennessy, Jean.* Vers la société des nations. Pp. ix + 180. Paris, Giard et Brière.

Calderón Cousiño, Adolfo. La cuestión chileno-peruana. Breve historia diplomática de las relaciones chileno peruanas. Pp. 179. Santiago de Chile, Imp. "Zig-Zag."

Caldwell, Robert Granville. The peace congresses of the nineteenth century. Pp. 124. Houston, Tex., Rice Institute Pamphlet, Apr., 1918.

Chung, Henry, compiler. Korean treaties. Pp. 226. Nichols.

Chung, Henry. The oriental policy of the United States. N. Y., Fleming H. Revell Co.

Cimbali, Eduardo. I plebisciti, instituto fondamentale e dominatore del nuovo diritto internazionale. Pp. 52. Campobasso, Colitti.

Commission on Relations with the Orient. The Korean situation: authentic accounts of recent events by eye witnesses. Pp. 125. N. Y., Federal Council of the Churches of Christ in America.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Cosentini, F. Préliminaires à la Société des Nations. Pp. 240. Paris, Librairie Félix-Alcan.

Crosby, Oscar T. International war: its causes and its cure. Pp. xiv + 378. London, Macmillan & Co.

Documents and statements relating to peace proposals and war aims. N. Y., Macmillan Co.

Duggan, Stephen Pierce. The league of nations. Boston, Atlantic Monthly Press.

Eccard, F. L'Alsace sous la domination allemande. Pp. xviii + 309. Paris, Librairie Armand Colin.

España en la Sociedad de las Naciones. Opiniones emitidas en la encuesta de "La Revista Quincenal" sobre este problema. Pp. 198. Barcelona, Tip. de M. Galve.

Feyler, F. La Ligue des nations et la neutralité de la Suisse. Lausanne, Revue militaire suisse.

Frank, Reinhard. Das Saargebiet im Friedenschluss. Pp. 30. München, Buchdruckerei u. Verlagsanstalt C. Gerber.

Gaillard, Gaston. L'Allemagne et le Baltikum. Paris, Librairie Chapelot.

Gaston-Routier. El Napoleón de mis ensueños Napoleón I—Wilson. Pp. xxii + 301. Madrid, Artística de Sáez Hermanos.

Grand-Duché de Luxembourg. Neutralité du Grand-Duché pendant la guerre de 1914–1918. Attitude des pouvoirs publics. Pp. xl + 15 + 126. Buck.

Grassi, Carmelo. Le unioni internazionali amministrative et la società delle nazioni. Pp. 433. Catania, V. Giannotta.

Hasenclever, Adolf. Die Bedeutung der Monroedoktrin für die amerikanische Politik der Gegenwart. Halle a. S., Max Niemeyer, 1918.

Höijer, Olof. Le scandinavisme dans le passé et dans le présent. Paris, Bossard.

Inman, Samuel Guy. Intervention in Mexico. N. Y., Association Press.

Kawakami, K. K. Japan and world peace. Pp. xvi + 196. N. Y., Macmillan Co.

Kelsey, Carl, ed. International reconstruction. Ann. Am. Acad. Pol. and Soc. Sci. July, 1919.

Koo, V. K. Wellington, and *Wang, Cheng-Ting T.* China and the league of nations. London, Allen & Unwin.

Lavalle, Juan Bautista de. El Perú y la gran guerra. Pp. xv + 439. Lima Imp. Americana.

Lugan, A. Les problèmes internationaux et la Congrès de la Paix. Pp. 120 Paris, Editions Bossard.

Maccas, Léon. L'Hellenisme de l'Asie-Mineure. Son histoire, sa puissance son sort. Pp. 236. Paris, Berger-Levrault.

Mandelstam, A. Mémoire sur l'application du principe des nationalités à la question polonaise. Pp. 30. Paris, Hugonis.

Mazzei, Jacopo. Della politica doganale degli Stati Uniti, con speciale riguardo all' Italia. Pp. 239. Firenze, R. Bemporad e figlio.

Oncken, Hermann. Über die Zusammenhänge zwischen äusserer und innerer Politik. Leipzig u. Dresden, B. G. Teubner.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Passelecq, M. F. La magistrature belge contre le despotisme allemand. Paris et Nancy, Berger-Levrault. 1918.

Perreau-Pradier, P., et *Besson, M.* L'Effort colonial des Alliés. Pp. xv + 184. Paris, Berger-Levrault.

Quigley, Harold Scott. The immunity of private property from capture at sea. Pp. 200. Madison, Wis. Bulletin Univ. of Wis., Econ. & Pol. Sci. Ser., Vol. IX, No. 2. 1918.

Rimbault, Paul. La paix et la guerre devant le droit international. Paris, E. Ficker.

Roche, Tony. L'entrée de la Suisse dans la Ligue des nations. Genève, Imprimerie centrale.

Rosenfeld, Heinr. Wilson und Österreich. Pp. 140. Wien, C. Konegen.

Roustan, Désiré. Président W. Wilson. Messages, discours, documents diplomatiques relatifs à la guerre mondiale. 2 vol. Paris, Bossard.

Seymour, Ch. Les Antécédents diplomatiques de la guerre. Pp. 359. Paris, Recueil Sirey.

Shantung question, The. A statement of China's claim together with important documents submitted to the peace conference in Paris. Pp. 191. San Francisco, Chinese National Welfare Society in America.

Saltochiesa, Gino. La Società delle Nazioni. Pp. 38. Pisa, Tip. Mariotti.

Stier-Somlo, Fritz. Das neue Völkerrecht. Berlin, Karl Siegismund.

Strisower, Leo. Der Krieg und das Völkerrechtsordnung. Pp. v + 146. Wien, Manzsche Verlh.

Susmel, Ed. Le droit italique de Fiume. Pp. 20. Bologne, Zanichelli.

Tchernoff, J. Les nations et la Société des nations. Paris, Alcan.

Tricani, Epifanio. I presupposti del diritto internazionale. Pp. 46. Catania, Giannotta.

Walker, James, and *Petre, M. D.* State morality and the league of nations. London, Fisher Unwin.

Articles

Afghanistan. Our relations with Afghanistan. *Demetrius C. Boulger.* Contemp. Rev. June, 1919.

Albania. Albania and the powers. *M. E. Durham.* Contemp. Rev. June, 1919.

Angary. The law of angary. *J. Eugene Harley.* Am. Jour. Inter. Law. Apr., 1919.

Armenia. Det nye Armenien. *H. F. Ulrichsen.* Gads Danske Magasin. Juli-Aug., 1919.

Armistice. Das Waffenstillstandsabkommen zwischen Deutschland und der Entente vom 11. November 1918 im Lichte des Völkerrechts. *Karl Strupp.* Zeitschrift für Völkerrecht. 2/3 Heft, 1919.

Balkans. La question macédonienne et la paix. *Colonel L. Lamouche.* Rev. Pol. et Parl. Juin, 1919.

———. The problem of Dalmatia. *"Antenor."* History. Apr., 1919.

———. Northern Epirus and the principle of nationality. *N. J. Cassavetes.* International Conciliation. Aug., 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Balkans. Hungary, the Balkans, and the League. *Frank H. Simonds.* Rev. of Revs. Sept., 1919.

Belgium. The revision of the 1839 treaties. *Émile Cammaerts.* New Europe. July 31, 1919.

———. The first attempt to free the Scheldt. *Y.* Fort. Rev. July, 1919.

Blockade. Essai d'une theorie des blocus nouveaux. *Jean Alessandri.* Rev. Gén. Droit, Legis. et Juris. Mars.–Avril, 1919.

Canada. Keeping peace with Canada. *Emerson D. Fite.* Century. Sept., 1919.

China. Internationalization of Chinese railways. *D. K. Lieu.* Chinese Soc. and Pol. Sci. Rev. Mch., June, 1919.

———. China at the peace conference. I. II. *Sinensis.* New Europe June 26, July 3, 1919.

———. China's rights at the peace table. *Gilbert Reid.* Jour. Inter. Relations. July, 1919.

———. China and the Shantung settlement. *Liang Chi-Chao.* (Manchester Guardian.) Living Age. July 26, 1919.

———. Why China has not signed the peace treaty. *S. G. Chang.* Contemp. Rev. Aug., 1919.

———. China, Japan, and the peace. *Robert Machray.* Fort. Rev. Aug., 1919.

———. Shantung: I. The Shantung question and spheres of influence. *Alpheus Henry Snow.* II. The German-Chinese treaty of 1898 (complete official text with English translation). III. The Shantung award to Japan. *Thomas F. Millard.* Nation. Sec. II, Sept. 20, 1919.

Fourteen Points. The eclipse of the fourteen points. *Prince Max of Baden.* (Berliner Tageblatt.) Living Age. Aug. 23, 1919.

France. La politique française de la paix avant la guerre. *D'Estournelles de Constant.* La Paix par le Droit. Mai-Juin, 1919.

Freedom of the Seas. The German conception of the freedom of the seas. *Amos S. Hershey.* Am. Jour. Inter. Law. Apr., 1919.

———. Zur Frage der Freiheit der Meere. *Karl Strupp.* Archiv für Rechts- und Wirtschaftsphilosophie. Juli, 1918.

Galicia. The problem of eastern Galicia. *Miroslav Sichinsky.* International Conciliation. Aug., 1919.

Germany. Die zukünftige deutsche Aussenpolitik. *Fürst Lichnowsky.* Die Neue Rundschau. Feb., 1919.

———. Was sollen wir denn tun? Betrachtungen über Deutschlands aussenpolitische Lage. *Herman Kranold.* Die Neue Rundschau. Apr., 1919.

———. The new boundaries of Germany according to the peace treaty. Geog. Rev. May, 1919.

———. German democracy and French security. *Erich Kuttner.* (Vorwärts.) Living Age. Aug. 23, 1919.

Hindu Theory. Hindu theory of international relations. *Benoy Kumar Sarkar.* Am. Pol. Sci. Rev. Aug., 1919.

Islam. England and Islam. *Sir Theodore Morrison.* Nine. Cent. July, 1919.

———. Die Islamisch-Fränkischen Staatsverträge (Kapitulationen). *Martin Hartmann.* Zeitschrift für Politik. Heft 1/2, 1918.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Japan. Japan, yesterday, to-day—and to-morrow? *Joseph H. Longford.* Nine. Cent. July, 1919.

———. Japan and her neighbor. *Jeremiah Jenks.* No. Am. Rev. Aug., 1919.

———. Japan in action. *Jeremiah W. Jenks.* No. Am. Rev. Sept., 1919.

Jefferson. Jefferson and the law of nations. *Louis Martin Sears.* Am. Pol. Sci. Rev. Aug., 1919.

Jugo-Slavia. La Yougo-Slavie et la débacle austro-hongroise. *Henry Nèzard.* Rev. Pol. et Parl. Mai, 1919.

Labor Problems. De la répercussion de la guerre sur la réglementation du travail. *E.-H. Perreau.* Rev. Gén. Droit, Legis. et Juris. Janv.-Fév., 1919.

———. International labor standards and legislation. *John B. Andrews.* Proc. Acad. Pol. Sci. July, 1919.

———. The enforcement of international labor standards relating to child labor. *W. H. Swift.* Proc. Acad. Pol. Sci. July, 1919.

League of Nations. The relation of the covenant to recent international coöperation. *Dwight W. Morrow.* Proc. Acad. Pol. Sci. July, 1919.

———. The potentialities and significance of the league of nations covenant. *Key Pittman.* Proc. Acad. Pol. Sci. July, 1919.

———. The objections to the league of nations covenant. *George Wharton Pepper.* Proc. Acad. Pol. Sci. July, 1919.

———. A reply to Lord Robert Cecil. *James M. Beck.* No. Am. Rev. July, 1919.

———. How the league of nations differs from "The Holy Alliance." *Charles H. Levermore.* League of Nations Mag. July, 1919.

———. A league of nations. *E. S. P. Haynes.* Inter. Jour. Ethics. July, 1919.

———. In the valley of decision. *David Jayne Hill.* No. Am. Rev. July, 1919.

———. A league of insincerity. *David Jayne Hill.* No. Am. Rev. Sept., 1919.

———. A German view of the league of nations. *Walther Shuking.* (Frankfurter Zeitung.) Living Age. Aug. 9, 1919.

———. Frihed og Samvirke og Nationernes Forbund. *C. N. Starcke.* Tilskueren. Aug., 1919.

———. The degradation of policy. *L. P. Jacks.* Atlan. M. Sept., 1919.

———. The league of nations. *Charles Seymour.* Yale Rev. Oct., 1919.

———. Der Völkerbund. *Phillip Zorn.* Deutsche Revue. Jan., 1919.

———. Optakten til Folkenes Forbund. *Arthur Christensen.* Gads Danske Magasin. Feb., 1919.

———. Völkerbund und Rechtsfriede. *Prinz Max von Baden.* Preussische Jahrbücher. März, 1919.

———. Versuch zur Aufstellung eines Programms für die Organisation des Völkerbundes. *A. H. Appelmann.* Nord und Süd. Mai, 1919.

———. La société intellectuelle des nations. *Paul Otlet.* La Paix par le Droit. Avril, 1919.

———. La force au service du droit. *Leon Bourgeois.* La Paix par le Droit. Mai-Juin, 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

League of Nations. J. G. Fichte als Anhänger und als Kritiker des Völkerbundgedankens. *Fritz Medicus.* Zeitschrift für Völkerrecht. 2/3 Heft, 1919.

Letts. Letterne og deres Frihedskamp. *Anna M. Leepa.* Gads Danske Magasin. Juli–Aug., 1919.

Mandatory System. Under a mandate. I, II. *Fulani bin Fulani.* New Europe. July 3, July 10, 1919.

———. The mandatory system under the covenant of the league of nations. *Alpheus Henry Snow.* Proc. Acad. Pol. Sci. July, 1919.

Monroe Doctrine. The Monroe doctrine. *A. F. Pollard.* History. Apr., 1919.

Peace Conditions. Erzberger's peace conditions in 1914. New Europe. June 26, 1919.

———. The Eastern settlement. *H. N. Brailsford.* Contemp. Rev. June, 1919.

———. Fredsvilkaarene. *Arthur Christensen.* Gads Danske Magasin Juli-Aug., 1919.

———. A college course on peace issues. *H. E. Hawkes.* Educational Rev. Sept., 1919.

———. The peace, from a cracker barrel. *Henry Noble MacCracken.* Yale Rev. Oct., 1919.

Peace Congresses. Fredskonferencen. *Arthur Christensen.* Gads Danske Magasin. Mars, 1919.

———. The peace conference of Paris, 1919. *Geo. A. Finch.* Am. Jour. Inter. Law. Apr., 1919.

———. La Conférence de la Paix. *Ernest Lémonon.* Rev. Pol. et Parl. Mai, Juin, 1919.

———. Il Congresso di Vienna (1814–1815). *Antonio Monti.* Nuova Antologia. 1 Maggio, 1919.

Peace Treaty. The peace settlement: 1815 and 1919. *W. Alison Phillips.* Edin. Rev. July, 1919.

———. The treaty of Versailles. II. *J. A. R. Marriott.* Fort. Rev. July, 1919.

———. The liabilities of the treaty. *William Harbutt Dawson.* Fort. Rev. July, 1919.

———. Peace—or truce. (1) The peace according to Versailles—1919. *George A. B. Dewar.* (2) The peace according to Herr Erzberger. *George Saunders.* (3) After the signature. *Harold F. Wyatt.* (4) War and peace, limited or unlimited. *Major R. M. Johnston.* Nine. Cent. July, 1919.

———. The peace treaty: The treaty and the fourteen points. *Edward Krehbiel.* Argument for the treaty. *Chester H. Rowell.* Argument against the treaty. *John H. Miller.* Transactions of the Commonwealth Club of California. July, 1919.

———. Le traité de paix avec l'Allemagne. *Ernest Lémonon.* Rev. Pol. et Parl. Juillet, 1919.

———. The peace treaty with Germany. *Charles G. Fenwick.* Am. Pol. Sci. Rev. Aug., 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Peace Treaty. Americanizing the treaty. *David Jayne Hill.* No. Am. Rev. Aug., 1919.

———. The peace treaty and Germany. *Politicus.* Fort. Rev. Aug., 1919.

———. The treaty and the future. *William Harbutt Dawson.* Fort. Rev. Aug., 1919.

———. Clauses militaires du traité de paix. *Simon Robert.* Rev. Pol. et Parl. Juin, 1919.

———. Clauses navales et maritimes du traité de paix. *René La Bruyère.* Rev. Pol. et Parl. Juin, 1919.

Recognition. Concerning the recognition of new governments by the United States. *Charles Cheney Hyde.* Am. Jour. Inter. Law. Apr., 1919.

Reconstruction. Reconstruction and international law. *Theodore S. Woolsey.* Am. Jour. Inter. Law. Apr., 1919.

———. The problem of the new and small national-states in central and southern Europe: a summary survey. *Harry E. Barnes.* Jour. Inter. Relations. July, 1919.

Reparations. L'organisation du pillage et de la destruction des pays envahis. *Ferdinand Faure.* Rev. Pol. et Parl. Juin, 1919.

———. L'indemnité de guerre. *Charles Gide.* La Paix par le Droit. Mai–Juin, 1919.

———. Le traité du 28 juin et les reparations. *Ferdinand Faure.* Rev. Pol. et Parl. Juillet, 1919.

Rhine. La rive gauche du Rhin. *Jules D'Auriac.* Rev. Pol. et Parl. Mai, 1919.

Schleswig. Nordslesvig under Fremmedherredömmet. *M. Mackeprang.* Gads Danske Magasin. Mar., 1919.

Secret Diplomacy. Notes on secret diplomacy. *W. C. Dennis.* Chinese Soc. and Pol. Sci. Rev. June, 1919.

Switzerland. The neutrality of Switzerland. IV. *Gordon E. Sherman.* Am. Jour. Inter. Law. Apr., 1919.

———. Switzerland and the neutral standpoint. Round Table. Sept., 1919.

Turkey. The future of the Ottoman races. *Herbert Adams Gibbons.* Century. Sept., 1919.

Ukraine. Ostpolitik. 2. Die ukrainische Frage. *Paul Rohrbach.* Kunstwart. Zweites Aprilheft, 1919.

United States. The foreign policy of the United States. *J. A. R. Marriott.* Edin. Rev. Living Age. Aug. 9, 1919.

———. The Japanese evil in California. *James D. Phelan.* No. Am. Rev. Sept., 1919.

War Problems. The roots of the war. *William Stearns Davis, and others.* Century. July, Aug., Sept., 1919.

World Outlook. Rundskue. *Georg Brandes.* Tilskueren. Juni, 1919.

———. Tidens Tegn. *Georg Brandes.* Tilskueren. Juli, 1919.

———. Stadigt Jorskælv. *Georg Brandes.* Tilskueren. Aug., 1919.

———. Den eneste vei til verdensfred. *Inge Debes.* Samtiden. Hefte 5, 1919.

———. The world situation. *Thomas W. Lamont.* Atlan. M. Sept., 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

JURISPRUDENCE

Books

Aubéry, Gaëtan. France et Allemagne. Le droit civil et la préeminence juridique. Pp. vii + 348. Paris, Libr. générale de droit et de jurisprudence.

Borsi, Umberto. Studî di diritto coloniale. Pp. 128. Torino, fratelli Bocca. 1918.

Endemann, F. Lehrbuch des bürgerlichen Rechts. Pp. xii + 748. Berlin, Carl Heymann.

Fortes, José. Anais de jurisprudencia administrativa. Vol. I. Pp. x + 316. Porto, Tipographia da Renascença portuguesa. 1918.

Gafner, Max. Die Parteibefragung im schweizerischen Zivilprocessrecht. Pp. ix + 199. Bern, Stämpfli & C^ie.

Gay de Montellá, R. Código de Comercio, anotado con la jurisprudencia del Tribuno Supremo y resoluciones de la Dirección general de Registros. Pp. 280. Barcelona, Tip. Editorial Perelló. 1918.

Hellwig, Albert. Justizirrtümer. Pp. ix + 315. Minden, J. O. C. Bruns. 1918.

Lambert, Ed. L'enseignement du droit comparé. Sa coopération au rapprochement entre la jurisprudence française et la jurisprudence anglo-américaine. Pp. 1918. Paris, Rousseau.

Ledos, A. De la responsabilité civile des incapables. Thèse pour le doctorat en droit. Pp. x + 180. Paris, Libr. générale de droit et de jurisprudence.

Lelewer, Georg. Die neuen militärstrafrechtlichen Gesetze. Pp. iv + 101. Wien, Manzsche Verlh.

Mercier, Charles. Crime and criminals. The jurisprudence of crime, medical, biological, and psychological. Pp. xvii + 290. N. Y., Henry Holt & Co.

Tricani, Epifanio. I primi principii del diritto. Pp. 46. Catania, Giannotto.

Articles

China. Reform in criminal procedure. *Wang Chung-hui.* Chinese Soc. and Pol. Sci. Rev. Mch., 1919.

———. The criminal code of the republic of China (Second revised draft). Chinese Soc. and Pol. Sci. Rev. June, 1919.

———. The divorce law of China. *R. T. Bryan, Jr.* Chinese Soc. and Pol. Sci. Rev. June, 1919.

———. Individualization of punishment. *Wang Chung-hui.* Chinese Soc. and Pol. Sci. Rev. June, 1919.

Conflict of Laws. Zur Geschichte des internationalen Privatrechts in Frankreich und den Niederlanden. *Karl Neumeyer.* Zeitschrift für Völkerrecht. 2/3 Heft, 1919.

Science of law. Hohfeld's contributions to the science of law. *Walter Wheeler Cook.* Yale Law Jour. June, 1919.

———. Law in evolution. *A. G. Keller.* Yale Law Jour. June, 1919.

———. The idea of law among civilized peoples. *Pietro Bonfante.* Minnesota Law Rev. June, 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Science of Law. Sittlichkeit und Billigkeit im deutschen bürgerlichen Recht. (I.) *Otto Fischer.* Archiv für Rechts- und Wirtschaftsphilosophie. Juli, 1918.

War and Law. Krieg und Rechtsidee. (I.) *Dr. v. Peretiatkowicz.* Archiv für Rechts- und Wirtschaftsphilosophie. Juli, 1918.

LOCAL GOVERNMENT

Books

Clarke, Ida Clyde. The little democracy: a text-book on community organization. Pp. xv + 253. N. Y., D. Appleton & Co. 1918.

Evans, Frederick Noble. Town improvement. N. Y., D. Appleton & Co.

Greenfield, Kent Roberts. Sumptuary law in Nürnberg: a study in paternal government. Pp. 139. Baltimore, Johns Hopkins Press. 1918.

Larsen, Henrik. Nogle Oplysninger og Bemærkninger om Danske Landsbyer. Aarböger for Nordisk Oldkyndighed og Historie, III. Rakke, 8. Bind, 3. Hefte. Pp. 256. Kjöbenhavn, Det Kongelige Nordiske Oldskrifts-Selskab.

Molinari, Silvio. L'organizzazione dei pubblici servizî nei grandi e piccoli communi: contributo allo studio degli odierni problemi amministrativi. Pp. 92. Busto Arsizio, tip. A. Volonterio. 1918.

Smith, John F. Our neighborhood: good citizenship in rural communities. Pp. xi + 262. Philadelphia and Chicago, John C. Winston Co. 1918.

Ubierna, José Antonio. Vida autonómica de los organismos municipales. Pp. 216. Madrid, Talleres de Editorial Reus.

Wilson, Lucius E. Community leadership. The new profession. Pp. 137. N. Y., Am. City Bureau.

Articles

Assessment. The assessment of real estate. *Lawson Purdy.* Nat. Mun. Rev. Sept., 1919.

County Government. Nassau county plans a new government. *John Fleischer.* Nat. Mun. Rev. July, 1919.

Municipal Enterprise. State and municipal enterprise—does it pay? II. The metropolitan water board and post office telephone service. *E. G. Harman.* Nine. Cent. June, 1919.

Philadelphia. Philadelphia stirreth. *Frederick P. Gruenberg.* Nat. Mun. Rev. Aug., 1919.

Recall. The St. Louis recall effort and its aftermath. *Louis F. Budenz.* Nat. Mun. Rev. Aug., 1919.

POLITICAL THEORY AND MISCELLANEOUS

Books

Alector. Das politische Programm des Christentums. Pp. 94. Leipzig, Dörffling & Francke.

Archambault, P. L'idéalisme démocratique et la guerre. Pp. 97. Paris, Edition de l'Ame française.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Brissenden, P. F. The I. W. W.: a study of American syndicalism. Pp. 432. N. Y., Longmans, Green & Co.

Chinard, Gilbert. La doctrine de l'américanisme. Des Puritains au président Wilson. Paris, Hachette et C^ie^.

Cohen, Julius Henry. An American labor policy. N. Y., Macmillan Co.

Declareuil, J. Kant, le droit public et la société des nations. Pp. 31. Paris, Pedone.

Frank, Glenn. The politics of industry. Pp. 214. N. Y., Century Co.

Friters, Alfred. Revolutionsgewalt und Notstandsrecht. Rechtsstaatliches und Naturrechtliches. Pp. 199. Berlin, J. Guttentag.

Gompers, Samuel. American labor and the war. Pp. x + 377. N. Y., George H. Doran Co.

Graziano, Silvestro. Lo stato giuridico. Vol. I: critica (il metodo, le teorie e la realtà). Pp. 325. Roma, tip. ed. Romana.

Harms, Bernh. Ferdinand Lassalle und seine Bedeutung für die deutsche Sozialdemokratie. Pp. vii + 128. Jena, G. Fischer.

Hasbach, W. Die parlamentarische Kabinettsregierung. Stuttgart, Deutsche Verlagsanstalt.

Herre, Paul. Bismarcks Staatskunst. Bibliothek für Volks- und Weltwirtschaft, herausg. von v. Mammen, Heft 53. Pp. 40. Dresden u. Leipzig, Globus.

Hersent, Georges. Une politique de la construction après la guerre. Pp. 320. Paris, Payot et C^ie^.

Heymann, Lida Gustava. Frauenstimmrecht und Völkerverständigung. Pp. 35. Leipzig, Verlag Naturwissenschaften.

Hofacker, Wilh. Die Staatsverwaltung und das Strafrechtsreform. Pp. xv + 542. Stuttgart, W. Kohlhammer.

Jardón, Alberto. Las teorías políticas de Duguit. Pp. 80. Madrid, Imprenta de Editorial Reus.

Lamarzelle, G. de. L'Anarchie dans le monde moderne. Pp. xii + 496. Paris, G. Beauchesne.

Larsen, Karl. Militarismens Fallit. Köbenhavn, Nyt Nordisk Forlag.

Laski, Harold J. The responsibility of the state in England. Pp. 25. Cambridge, Harvard Law Rev. Assn., 1919, vol. XXXII, No. 5.

Liebig, Hans Frhr. v. Die Politik von Bethmann-Hollwegs. Eine Studie. Pp. 306. München, J. F. Lehmanns Verl.

López de Haro, Rafael. Su majestad el individuo. Pp. 254. Madrid, S. L. de Artes Gráficas.

Mackinder, H. J. Democratic ideals and reality. A study in the politics of reconstruction. Pp. 272. London, Constable.

Mandelstam, A. Mémoire sur la délimitation des Droits de l'Etat et de la Nation d'après la doctrine du Président Wilson. Pp. 85. Paris, Hugonis.

Means, Philip Ainsworth. Racial factors in democracy. Pp. 278. Boston, Marshall Jones.

Ohr, Herm. Die Trennung von Staat und Kirche. Ihre Voraussetzungen und Wirkungen. Pp. 24. Breslau, M. Jahnz.

Paquier, J. Luther et l'Allemagne. Pp. xx + 285. Paris, Lecoffre. 1918.

Prins, Ad. La Démocratie après la guerre. Pp. 132. Paris, Giard et Brière.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Puyol y Alonso, Julio. Proceso del sindicalismo revolucionario. Pp. 79. Madrid, Imp. Sobrinos de la Suc. de M. Minuesa de los Ríos.

Said-Ruete, Rudolph. Politische Korrespondenzen und friedfertige Kriegsaufsätze 1914–1918. Pp. vii + 193. Zürich, Art. Institut Orell Füssli.

Stier-Somlo, Fritz. Reichsstaatsrecht und Einzelstaatsrecht. Leipzig, Veit & Comp.

Taft, William H., Wickersham, George W., Lowell, A. Lawrence, and *Taft, Henry W.* The covenanter. Pp. 188. N. Y., Doubleday, Page Co.

Virgilio, Antonio. Del presente nostro stato sociale. Pp. 255. Genova, tip. P. Pellas e C. 1918.

Wichtl, Frdr. Weltfreimaurerei, Weltrevolution, Weltrepublik. Eine Untersuchung über Ursprung und Endziele des Weltkrieges. Pp. iii + 204. München, J. F. Lehmanns Verl.

Articles

Administrative Theories. Les théories administratives de M. Hauriou. *P. Darlu.* Rev. Pol. et Parl. Juillet, 1919.

Americanization. The Americanization movement. *Howard C. Hill.* Am. Jour. Soc. May, 1919.

———. The importance of state aid to the future citizenry of the commonwealth. *John J. Mahoney.* Education. June, 1919.

———. Making Americans in Minnesota. *Margaret Helen Hoyt.* Educ. Rev. June, 1919.

———. An Americanization program for the schools. *George R. Davies.* Quar. Jour. Univ. of North Dakota. July, 1919.

———. Americanization from the viewpoint of young Asia. *Benoy Kumar Sarkar.* Jour. Inter. Relations. July, 1919.

Anarchism. Le péril anarchiste. *Louis Proal.* Rev. Pol. et Parl. Juillet, 1919.

Bolshevism. Bolsjevismen. *Olav Midttun.* Syn og Segn. Apr., 1919.

———. L'insidioso contagio delle parale: il bolscevismo. *Ernesto Nathan.* Nuova Antologia. 1 Maggio, 1919.

———. The hoax of bolshevism. *Herbert Wilton Stanley.* Atlan. M. July, 1919.

———. The rationale of bolshevism. *Feliciu Vexler.* Columbia Univ. Quar. July, 1919.

———. The league of nations vs. bolshevism. *David R. Francis.* World's Work. Sept., 1919.

Bureaucracy. The problem of bureaucracy. *A. Emil Davies.* Anglo-French Rev. May, 1919.

Carlyle. Carlyle als Imperialist. *Else Kemper.* Zeitschrift für Politik. Heft 1/2, 1918.

Church and State. Zur Trennung von Kirche und Staat. *Hermann Mulert.* Preussische Jahrbücher. Jan., 1919.

———. Das Verhältnis von Staat und Kirche im Licht der Geschichte. *Karl Holl.* Deutsche Rundschau. Apr., 1919.

———. Das Frankfurter Parlament zur Frage Staat und Kirche. *Pfarrer Dr. Pfannkuche.* Nord und Süd. Mai. 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Civil Liberty. The restoration of civil liberty. *Halford Knight.* Contemp Rev. June, 1919.

Collective Bargaining. Collective bargaining in politics. *Geroid Robinson.* Dial. July 26, 1919.

Democracy. The origin of democracy. *J. L. Gillin.* Am. Jour. Soc. May, 1919.

———. The coming industrial democracy. *Victor S. Yarros.* Am. Jour. Soc. May, 1919.

———. Democrazia radicale: l'ultimo bivio. *N. Massimo Fovel.* Nuova Antologia. 16 Maggio, 1919.

———. How to save democracy. *Harold F. Wyatt.* Nine. Cent. June, 1919.

———. Manning, America and democracy. *Shane Leslie.* Dublin Rev. July-Sept., 1919.

———. The Pilgrim's Progress of democracy. *Margaret Sherwood.* Atlan. M. Sept., 1919.

———. The birth of democracy. *Charles Foster Kent.* Yale Rev. Oct., 1919.

Deportation. Deportation and political policy. *Phillips Russell.* Dial. Aug. 23, 1919.

———. Deportation of Hindu politicals. *Sailendra nath Ghose.* Dial. Aug. 23, 1919.

Education. The new nationalism and education. *Robert W. Bruère.* Harper's. July, 1919.

———. Vocational education in a democratic society. *John A. Ryan.* Catholic World. Aug., 1919.

Electoral Reform. Vers la réforme électorale. *M. Malzac.* Rev. Pol. et Parl. Mai, 1919.

Freedom of Speech. Freedom of speech in war time. *Zechariah Chafee, Jr.* Harvard Law Rev. June, 1919.

German Competition. Crushing the German advance in American industry. *A. Mitchell Palmer.* Scribner's. July, 1919.

Individualism. Is America worth saving? Republic or socialist autocracy? *Nicholas Murray Butler.* Const. Rev. July, 1919.

Individual Liberty. Individual liberty and the constitution. *Sir Henry Cunynghame.* Edin. Rev. July, 1919.

Language Question. The question of language. *Maurice Francis Egan.* American-Scandinavian Rev. July-Aug., 1919.

———. Language bills in state legislatures. *Lee M. Hollander.* American-Scandinavian Rev. July-Aug., 1919.

Legislation. Principles of moral legislation. *A. K. Rodgers.* Inter. Jour. Ethics. July, 1919.

Machiavelli. Die Entdeckung Machiavellis im Deutschland zu Beginn des 19. Jahrhunderts. *Albert Elkan.* Historische Zeitschrift, 23. Band, 3. Heft, 1919.

Militarism. Heeresverfassung und Volksmoral. *Freiherr von Freytag-Loringhoven.* Deutsche Rundschau. Apr., 1919.

Minority Rights. Rett for nasjonale mindretal. *Halvdan Koht.* Syn og Segn. Apr., 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Mohammedanism. The influence and tendencies of Mohammedanism. *Lothrop Stoddard.* World's Work. Aug., 1919.

Monarchy. Hereditary monarchy. *Bernard Holland.* Dublin Rev. Apr.-June, 1919.

Natural Law. Justice Holmes on natural law and the moral ideal. *Boyd H. Bode.* Inter. Jour. Ethics. July, 1919.

Nietzsche. Das Problem Nietzsche. *Kurt Singer.* Die Neue Rundschau. Apr., 1919.

Negro Problem. National responsibility for the education of the negro. *Kelly Miller.* Educ. Rev. June, 1919.

———. The negro problem from a British point of view. *Percival F. Smith.* (New Witness.) Living Age. Aug. 2, 1919.

Organic Theory. Der Staat—eine Organprojektion. *Ludwig Stein.* Nord und Süd. Mai, 1919.

———. Möglichkeiten und Grenzen einer organischen Staatsauffassung. *Gert von Natzmer.* Nord und Süd. Mai, 1919.

Political Criminals. The trial of political criminals here and abroad. *Robert Ferrari.* Dial. June 28, 1919.

Political Psychology. The psychology of the reformer and the stand-patter. *Henry W. Farnam.* Nat. Mun. Rev. June, 1919.

———. Political psychology of the war. *Lawrence Y. Sherman.* Forum. Aug., 1919.

Proportional Representation. I vari sistemi della rappresentanza proporzionale. *Camillo Peàno.* Nuova Antologia. 16 Aprile, 1919.

———. Scrutinio di lista e rappresentanza proporzionale. *Tommaso Tittoni.* Nuova Antologia. 16 Aprile, 1919.

———. Proportional representation in the league of nations. *Arthur K. Kuhn.* Proc. Acad. Pol. Sci., July, 1919.

Race Prejudice. La Naturalisation et le préjugé de la race. *G. Gruffy.* Rev. Pol. et Parl. Juillet, 1919.

Radicalism. Radical America. *Henry Seidel Canby.* Century. Sept., 1919.

Representative Government. Benjamin Franklin and the constitution. *Joseph Buffington.* Const. Rev. July, 1919.

Revolution. Revolutionsstudier. *Arthur Christensen.* Gads Danske Magasin. Apr., 1919.

———. Reactionary policies of our social revolution. *Lee S. Overman.* Forum. July, 1919.

———. The cycle of revolution. *Alfred B. Kuttner.* New Repub. Aug. 20, 1919.

Rights and Duties. Les droits et les devoirs des nations. *Th. Ruyssen.* La Paix par le Droit. Avril, 1919.

Roosevelt. Chapters of Roosevelt's life. I, II, III. *William Roscoe Thayer.* No. Am. Rev. July, Aug., Sept., 1919.

Self-Determination. Das freie Selbstbestimmungsrecht der Nordmark. *Victor Fabricius.* Preussische Jahrbücher. Feb., 1919.

———. Self-determination. *Theodore S. Woolsey.* Am. Jour. Inter. Law. Apr., 1919.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Single Tax. The single tax in theory and in practice. *J. Hamilton Ferns.* Econ. World. July 12, 1919.

Socialism. Der Sozialismus im wahren und im falschen Sinne. *Herausgeber.* Politisch-Anthropologische Monatsschrift. Jan., 1919.

Sociology and Political Theory. Two representative contributions of sociology to political theory: the doctrines of William Graham Sumner and Lester Frank Ward. *Harry Elmer Barnes.* Am. Jour. Soc. July, 1919.

Sovereignty. What is sovereignty? *Edward N. Dingley.* League of Nations Mag. June, 1919.

State. Die moderne Krankheit des Staats- und Gesellschaftskörpers. *Herausgeber.* Politisch-Anthropologische Monatsschrift. Feb., 1919.

———. La doctrine allemande de l'autolimitation de l'etat. *Léon Duguit.* Rev. Droit Pub. et Sci. Pol. Avril-Mai-Juin, 1919.

———. The status of the state. *Lewis Mumford.* Dial. July 26, 1919.

State Morality. Politik und Moral. *Reinhold Seeberg.* Deutsche Revue. Jan., 1919.

———. State morality. *Bredo Morgenstierne.* Quar. Rev. July, 1919.

Syndicalism. Statssyndikalisme. *C. Ussing.* Tilskueren. Aug., 1919.

Tariff and Wages. How the tariff affects wages. *F. W. Taussig.* Atlan. M. Sept., 1919.

GOVERNMENT PUBLICATIONS

ROLLIN A. SAWYER, JR.

Economics Division, New York Public Library

AMERICAN

UNITED STATES

Appropriations committee (*Senate, 65: 3*). Foodstuffs and supplies for Europe. Hearings on House bill 13708. . . . Washington: Gov. Prtg. Off., 1919. 34 p. Supplemental. 25 p.

Council of national defense. Readjustment and reconstruction information. 1. Readjustment and reconstruction activities in foreign countries. Washington: Gov. Prtg. Off., 1919, 188 p.

Foreign relations committee (*Senate, 66: 1*). Treaty of peace with Germany. Hearings. Washington: Gov. Prtg Off., 1919. 20 parts.

Judiciary committee (*Senate, 65: 3*). Bolshevik propaganda. Hearings pursuant to S. Res. 439 and 469. February 11, 1919, to March 10, 1919. . . . Washington: Gov. Prtg Off., 1919. 1265 p.

Library of Congress. List of references on the Monroe doctrine. Washington: Gov. Prtg Off., 1919. 122 p.

War department. The war with Germany. A statistical summary. Washington: Gov. Prtg Off., 1919. 154 p.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

ALABAMA

Law reform commission. Report submitted in conformity to a joint resolution of Sept. 25, 1915. Montgomery, 1919. 31 p. (Legislative document no. 2.)

CALIFORNIA

Land settlement board. Information regarding progress under the land settlement act and about the plans for soldier settlement in the future. Sacramento: State Prtg Off., 1919. 43 p.

ILLINOIS

Health insurance commission. Report. [Springfield: Illinois State Journal Co.] 1919. 647 p.

Legislative reference bureau. Digest of laws enacted. Fifty-first General Assembly. Springfield. 1919. 119 p.

MASSACHUSETTS

Constitutional convention. Bulletins for the constitutional convention, 1917–1918. . . . Boston: Wright and Potter Prtg. Co., 1918. 2 v.

——— ——— Debates. 1917–1918. Boston: Wright and Potter Prtg. Co., 1919. 2 v.

Statistics bureau. Decennial census of the commonwealth, 1915. Part iii. Nativity, color or race, political condition, ages and conjugal condition. Boston: Wright and Potter Prtg. Co., 1918. 483 p.

MISSOURI

Council of defense. Final report. 1917–1918–1919. [St. Louis, 1919.] 121 p.

NEW YORK

Joint legislative committee on the simplification of civil practice. Report transmitted to the legislature March 4, 1918. Albany: J. B. Lyon Co., 1918. 330 p.

Reconstruction commission. Draft of report on retrenchment and reorganization in the state government. Prepared by the retrenchment committee for consideration at public hearing September 24, 1919. New York, 1919. 410 p.

OHIO

Council of national defense. Constructive program for Americanization in Ohio. . . . Columbus: F. J. Heer, 1919. 24 p.

——— ——— A history of the activities of the Ohio branch, council of national defense. 1917–1919. How Ohio mobilized her resources for the war. [Columbus: F. J. Heer, 1919.] 205 p.

RHODE ISLAND

Statutes. Election laws of Rhode Island. 1918. Providence, 1918. 300 p.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

FOREIGN

BELGIUM

Banque nationale. La Banque nationale de Belgique sous l'occupation allemande. 1914–1918. Rapport au Roi. Brussels: Banque nationale, 1918. 54 p.

BRAZIL

Relacoes exteriores, Ministerio das. Guerra da Europa. Documentos diplomaticos, attitude do Brasil. Rio de Janeiro, 1918. 230 p.

CANADA

Parliament. Canadian parliamentary guide. Ottawa, 1919. 647 p.

CHINA

Delegation to the peace conference. Claim of China for direct restitution to herself of the leased territory of Kiaochow. . . . Paris, [Imprimerie de Vaugirard], 1919. 87 p. 2 maps.

——— ——— Claim of China, submitting for abrogation by the peace conference the treaties and notes made and exchanged by and between China and Japan on May 25, 1915. . . . Paris, [Imprimerie de Vaugirard], 1919. 47 p.

——— ——— Questions for readjustment. . . . Paris, [Imprimerie de Vaugirard], 1919. 41 p.

Justice, Ministry of. Provisional regulations of the high courts and their subordinate courts of the Chinese republic. . . . Peking: Peking Leader Press, n. d. 24 p.

Statutes. Provisional criminal code of the republic of China. . . . Paris, [Imprimerie de Vaugirard], n. d. 102 p.

GREAT BRITAIN

East India constitutional reforms committee. Report. London: H. M. Stationery Off., 1919. 2 v. [Cmd. 103, 141.]

——— ——— ——— Letter from the government of India dated 5th March, 1919, and enclosures on the questions raised in the report on Indian constitutional reforms. London: H. M. Stationery Off., 1919. 316 p. [Cmd. 123.]

Foreign office. Treaty of peace between the United States of America, the British empire, France, Italy and Japan and Poland. Signed at Versailles June 28, 1919. London: H. M. Stationery Off., 1919. 13 p. [Cmd. 223.] (Treaty series no. 8, 1919.)

——— ——— Treaty respecting assistance to France in the event of unprovoked aggression by Germany. Signed at Versailles June 28, 1919. London: H. M. Stationery Off., 1919. 7 p. [Cmd. 221.] (Treaty series no. 6, 1919.)

War office. Further reports by British officers on the economic conditions prevailing in Germany. March and April, 1919. London: H. M. Stationery Off., 1919. 50 p. [Cmd. 208.]

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

GREECE

La Grèce devant le congrès de la paix. [Paris, 1918.] 25 p.

La Grecia nella guerra Europea. Il libro bianco Greco. (Documenti diplomatici, 1913–1917.) Rome: Riccardo Garroni, 1918. 176 p.

JAPAN

Imperial government railways. Railway nationalization in Japan. Ten years progress under state management, 1907–8 to 1916–7. . . . Tokio: Tsukiji Type Foundry, [1919]. 205 p., 7 pl.

KOREA

Delegation to peace conference. Claim of the Korean people and nation for liberation from Japan. . . . Paris, 1919. [Philadelphia: P. Jaisohn, 1919.] 23 p.

MONTENEGRO

The question of Montenegro. . . . [Paris: Imprimerie Graphique], 1919. 52 p.

The question of Scutari. Paris: 1919. [Paris: Imprimerie Graphique], 1919. 14 p., 1 map.

POLAND

Commission of work preparatory to the peace conference. Dantzig. Paris, [Imprimerie Levé, 1919.] 31 p.

——— ——— East Prussia. Paris, [Imprimerie Levé], 1919. 23 p.

——— ——— Gdansk and East Prussia. Paris, [Imprimerie Levé], 1919. 47 p.

——— ——— Memoire concernant la délimitation des frontières entre les états polonais et Tchéco-Slovaque en Silésie de Cieszyn, Orawa et Spisz. Paris: [Imprimerie Levé, 1919.] 31 p., 1 l.

Delegation to the peace conference. Economic delegation. La Haute Silésie, son union economique avec les autre territoires de la Pologne. Paris, [Imprimerie Levé], 1919. 13 p.

——— ——— Mémoire sur le situation economique de la Pologne. . . . Paris, [Imprimerie Levé], 1919. 15 p. Annexes. 39 p.

——— ——— Silésie de Cieszyn. . . . Paris, [Imprimerie Levé], 1919. 10 p., 5 l.

——— ——— *Scientific delegation.* La question de la Silésie, par Joseph Buzek. Paris, [Imprimerie Levé], 1919. 14 p.

UNION OF SOUTH AFRICA

Disabilities of British Indians in Transvaal, Select committee on. Report. Cape Town, 1919. 96 p.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

INDEX

Administration, Experiments in international, by F. B. Sayre, rev. by Eugene Wambaugh 495
Administrative reform in France, by J. W. Garner 17
Administrative reorganization in Indiana, by Charles Kettleborough 641
Administrative reorganization in Great Britain 297, 662
Allin, C. D., rev. of McLaughlin, America and Britain 314
Amendments to state constitutions, by Charles Kettleborough 429
America among the nations, by H. H. Powers, rev. by Albert H. Washburn .. 675
America and Britain, by A. C. McLaughlin, rev. by C. D. Allin 314
American cities: their business methods, by A. B. Gilbert, rev. by Edgar Dawson 160
American foreign policy, a review of, From isolation to leadership, by J. H. Latané, rev. by E. S. Corwin 148
American government and politics 78–86, 251–263
American problems of reconstruction, ed. by E. M. Friedman, rev. by J. W. Crook 153
American publicity in Italy, by C. E. Merriam 541
Anderson, William, rev. of Lincoln, Results of municipal electric lighting in Massachusetts 516
Andrews, Arthur I., rev. of Schapiro, Modern and contemporary European history 144
Armistices, The, by Quincy Wright 128
Army and the law, by Garrard Glenn, rev. by Chalfant Robinson 157
Arneson, Ben A., Constitutionality of merit system legislation 593
Authority in the modern state, by H. J. Laski, rev. by W. J. Shepard 491

Balch, Thomas W. A world court in the light of the U. S. Supreme Court, rev. by Quincy Wright 150
Barnes, Elmer, A history of New Jersey penal institutions, rev. by W. F. Spalding 686
Beard, Charles A., Ogg, Frederic A. and, National governments and the world war, rev. by M. L. Bonham, Jr 498
Belgium, by Brand Whitlock, rev. by E. E. Hunt 501
Berdahl, Clarence A., Books and Periodicals 699–723
Bond, Beverley, W., Jr. The quit-rent system in the American colonies, rev. by Everett Kimball 692
Bonham, Milledge L., Jr., rev. of Ogg and Beard, National governments and the world war 498
Book reviews 140–163, 311–337, 491–521, 671–698
Books and periodicals 164–175, 338–352, 522–536, 699–723
British-American discords and concords; a record of three centuries, rev. by Sinclair Kennedy 145

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

British parliamentary elections 108
British war administration, by John A. Fairlie, rev. by W. S. Wallace 678
Brooks, Robert C., Government and politics of Switzerland, rev. by J. M. Vincent 143
Budget, reviews of books on 503, 505, 507, 683

Callahan, J. M., rev. of Farrand, The development of the U. S. from colonies to a world power 147
Canada, reviews of books on 140, 142, 503
Canadian budgetary system, by H. G. Villard and W. W. Willoughby, rev. by W. C. Clark 503
Carpenter, W. S., England's new ministry of health 662
Central America, The five republics of, by D. G. Munro, rev. by C. L. Jones. 507
Chang, Loy, rev. of Overlach, Foreign financial control in China 509
China, reviews of books on, by L. B. Evans 509, 511
Citizen and the republic, The, by J. A. Woodburn and T. F. Moran, rev. by J. W. Gannaway 323
City elections 649
Clark, W. C., rev. of Villard and Willoughby, Canadian budgetary system... 503
Clarke, Edith E., Guide to the use of U. S. government publications, rev. by R. A. Sawyer, Jr. 154
Cleveland, Frederick A., and Schafer, Joseph, Democracy in reconstruction, rev. by W. B. M. 671
Coker, F. W., Notes on municipal affairs 643
rev. of Giddings, The responsible state 316
Congress, The short session of, by Lindsay Rogers 251
Constitution making in Arkansas, by D. Y. Thomas 87
Constitutional development in Czechoslovakia, by R. J. Kerner 652
Constitutional law in 1917–1918, by T. R. Powell 47, 229
in 1918–1919, by T. R. Powell 607
Constitutional power and world affairs, by George Sutherland, rev. by W. W. Willoughby 500
Constitutionality of merit system legislation, by Ben A. Arneson 593
Cooke, Morris Llewellyn, Our cities awake, rev. by Raymond Moley 687
Corwin, E. S., rev. of Latané, From isolation to leadership; a review of American foreign policy 148
Crime prevention, by Arthur Woods, rev. by L. F. Fuld 158
Crook, J. W., rev. of Friedman, American problems of reconstruction 153
Cross, A. L., rev. of McIlwain, The political works of James I 320
Cushman, R. E., Judicial decisions on public law 100–107, 281–292, 451–459

Danish parliamentary elections of 1918, by R. S. Saby 656
Dawson, Edgar, rev. of Gilbert, American cities: their business methods .. 160
Debel, Niels H., The veto power of the governor of Illinois, rev. by A. N. Holcombe 156
Democracy in reconstruction, ed. by F. A. Cleveland and Joseph Schafer, rev. by W. B. M. 671
Democracy, safe and unsafe, by H. W. Jones, rev. by H. M. Nimmo 321

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Democracy, The valley of, by Meredith Nicholson, rev. by H. M. Nimmo... 321
Departmental coöperation in state government, by A. R. Ellingwood, rev. by J. M. Mathews... 155
Development of the U. S. from colonies to a world power, by Max Farrand, rev. by J. M. Callahan... 147
Diplomatic correspondence between the United States and Germany, by J. B. Scott, rev... 673
Documents of the Canadian constitution, ed. by W. P. M. Kennedy, rev. by W. B. M... 142
Douglas, Harlan Paul, The little town, especially in its rural relationships, rev. by F. M. Eliot... 690
Durkee, J. Stanley, rev. of Woodson, A century of negro migration... 514

Economic reconstruction, by J. T. Peddie, rev. by W. B. M... 671
Effects of the league of nations covenant, by Quincy Wright... 556
Ehrensperger, Harold A., Governors' messages... 277
Social legislation... 93
Election, The eve of, by J. B. Howe, rev. by J. A. Woodburn... 325
Elections, How the world votes: the story of democratic development in, by Charles Seymour and D. P. Frary, rev. by J. P. Richardson... 497
Eliot, Frederick M., rev. of Douglas, The little town... 690
Ellingwood, A. R., Departmental coöperation in state government, rev. by J. M. Mathews... 155
rev. of Means, Racial factors in democracy... 330
England's new ministry of health, by W. S. Carpenter... 662
English leadership. English readings in modern history, by J. N. Larned, rev. by Edward Porritt... 313
European commonwealth, The, by J. A. R. Marriott, rev. by W. P. M. Kennedy... 679
European history, modern and contemporary, by J. S. Schapiro, rev. by A. I. Andrews... 144
Evans, L. B., rev. of Tyau, Legal obligations arising out of treaty relations between China and other states; Tyau, China's new constitution and international problems... 511
Evolution of the Dominion of Canada, by Edward Porritt, rev. by John Willison... 140
Exhibit planning, The A B C of, by E. G. and Mary S. Routzahn, rev. by John Nolen... 159
Experts in city government, ed. by E. A. Fitzpatrick, rev. by Alice Holden... 689

Fairlie, John A., British war administration, rev. by W. S. Wallace... 678
Farrand, Max, The development of the U. S. from colonies to a world power, rev. by J. M. Callahan... 147
Fenwick, Charles G., Notes on international affairs... 120–132, 468–483
Organization and procedure of the Peace Conference... 199
Peace treaty with Germany... 468
rev. of Minor, A republic of nations... 326
Fite, Emerson D., rev. of Ogg, National progress, 1907–1917... 677

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Fitzpatrick, E. A., Budget making in a democracy, rev. by J. M. Mathews.. 507
Experts in city government, rev. by Alice Holden..... 689
Flippen, Royal Scott, The royal government of Virginia, rev. by Lyon G. Tyler..... 691
Follett, M. P., The new state, rev. by H. J. Ford..... 494
Ford, Henry Jones, rev. of Follett, The new state..... 494
rev. of Willoughby, The problem of a national budget..... 505
Foreign financial control in China, by T. W. Overlach, rev. by Loy Chang... 509
Foreign governments and politics.....108–119, 293–305, 460–467, 652–664
France, Administrative reform in, by J. W. Garner..... 17
Frank, Glenn, The politics of industry, rev. by A. N. Holcombe..... 694
Frary, Donald P., and Seymour, Charles, How the world votes: the story of democratic development in elections, rev. by J. P. Richardson..... 497
Friedman, Elisha M., American problems of reconstruction, rev. by J. W. Crook..... 153
Labor reconstruction in Europe, rev. by F. A. Ogg..... 499
Fuld, Leonhard F., rev. of Woods, Crime prevention..... 158

Gannaway, J. W., rev. of Woodburn and Moran, The citizen and the republic 323
Garner, James W., Administrative reform in France..... 17
Germany, New Government in, by W. J. Shepard..... 361
Peace treaty with, by C. G. Fenwick..... 468
Political developments in, 1917–1918..... 115
Gettell, R. G., rev. of Zimmern, Nationality and government..... 327
Russian soviet constitution..... 293
Giddings, F. H., The responsible state, rev. by F. W. Coker..... 316
Gilbert, Arthur B., American cities: their business methods, rev. by Edgar Dawson..... 160
Glenn, Garrard, The army and the law, rev. by Chalfant Robinson..... 157
Government and politics of Switzerland, by R. C. Brooks, rev. by J. M. Vincent..... 143
Government publications.....175–179, 352–360, 536–540, 720–723
Governors' messages..... 277
Great Britain, Proposed administrative reorganization, by F. A. O..... 297
Guide to the use of U. S. government publications, by Edith E. Clarke, rev. by R. A. Sawyer, Jr..... 154
Gries, John M., rev. of Thomas, Principles of government purchasing..... 685

Hackett, Francis, Ireland: a study in nationalism, rev. by E. R. Turner.... 328
Hanford, A. Chester, rev. of Willoughby, Budgetary reform in the states... 683
Harlow, R. V., History of legislative methods in the period before 1825, rev. by E. P. Hartford..... 332
Harris, Garrard, The redemption of the disabled, rev. by James P. Munroe.. 694
Hartford, E. P., rev. of Harlow, History of legislative methods in the period before 1825..... 332
Haynes, George H., rev. of Porter, A history of suffrage in the U. S..... 151
Health insurance, by Dorothy Ketcham 89
Hill, Charles E., rev. of Oakes and Mowat, The great European treaties of the nineteenth century..... 513

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Hindu theory of international relations, by B. K. Sarkar 400
Hobhouse, L. T., The metaphysical theory of the state, rev. by W. J. Shepard 318
Holcombe, A. N., rev. of Debel, The veto power of the governor of Illinois.. 156
rev. of Frank, The politics of industry 694
rev. of Jenks, The state and the nation 680
rev. of Watson, The state in peace and war 680
Holden, Alice, rev. of Fitzpatrick, Experts in city government 689
Home rule and other charter revisions 645
Home rule for India, by G. H. Stuart 301
Howe, J. B., The eve of election, rev. by J. A. Woodburn 325
Howe, W. S., War and progress, rev. by Sinclair Kennedy 331
Hunt, Edward E., rev. of Whitlock, Belgium 501

Immunity of private property from capture at sea, by H. S. Quigley, rev. by Quincy Wright 514
India, Home rule for, by G. H. Stuart 301
International relations, Hindu theory of, by B. K. Sarkar 400
Ireland: a study in nationalism, by Francis Hackett, rev. by E. R. Turner.. 328
Italy, American publicity in, by Charles E. Merriam 541

James I, The political works of, ed. by C. H. McIlwain, rev. by A. L. Cross.. 320
Japan and world peace, by K. K. Kawakami, rev. by W. W. McLaren 682
Jefferson and the law of nations, by L. M. Sears 379
Jenks, Edward, The state and the nation, rev. by A. N. Holcombe 680
Jones, Chester Lloyd, rev. of Munro, The five republics of Central America.. 507
Jones, H. W., Safe and unsafe democracy. rev. by H. M. Nimmo 321
Judicial decisions on public law, by R. E. Cushman... 100–107, 281–292, 451–459
Judiciary legislation, by H. A. Rider 447

Kaiser, The legal liability of the, by Quincy Wright 120
Kalaw, Maximo M., The new Philippine government 415
Kawakami, K. K., Japan and world peace, rev. by W. W. McLaren 682
Kennedy, Sinclair, British-American discords and concords; a record of three centuries 145
rev. of Howe, War and progress 330
Kennedy, W. P. M., Documents of the Canadian constitution, rev. by W. B. M. 142
rev. of Marriott, The European commonwealth 679
Kerner, Robert J., Constitutional development in Czechoslovakia 652
Ketcham, Dorothy, Health insurance 89
Kettleborough, Charles, Administrative reorganization in Indiana 641
Amendments to state constitutions 429
Legislative notes and reviews 87–99, 264–280, 429–450, 634–642
Kimball, Everett, rev. of Bond, Quit-rent system 692

Labor reconstruction in Europe, by E. L. Friedman, rev. by F. A. Ogg 499
Lamprecht, S. P., The moral and political philosophy of John Locke, rev. by J. B. Pratt 319

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Larned, J. N., English leadership, rev. by Edward Porritt..... 313
Larson, L. M., rev. of Relf, The petition of right..... 146
Laski, Harold J., Authority in the modern state, rev. by W. J. Shepard..... 491
Latané, John H., From isolation to leadership, a review of American foreign policy, rev. by E. S. Corwin..... 148
Lavell, Cecil Fairfield, Reconstruction and national life, rev. by W. B. M.... 671
Law of nations, Jefferson and the, by L. M. Sears..... 379
League of nations covenant, Effects of the, by Quincy Wright..... 556
League of nations, Paris covenant for a, by W. H. Taft..... 181
Legal liability of the Kaiser, by Quincy Wright..... 120
Legislative methods in the period before 1825, History of, by R. V. Harlow, rev. by E. P. Hartford..... 332
Legislative notes and reviews.....87–99, 264–280, 429–450, 634–642
Lincoln, Edmond E., The results of municipal electric lighting in Massachusetts, rev. by Wm. Anderson..... 516
Lippincott, Isaac, Problems of reconstruction, rev. by W. B. M..... 671
Little town, The, especially in its rural relationships, by H. P. Douglas, rev. by F. M. Eliot..... 690
Locke, John, The moral and political philosophy of, by S. P. Lamprecht, rev. by J. B. Pratt..... 319

McIlwain, C. H., ed. The political works of James I, rev. by A. L. Cross..... 320
McLaren, W. W., rev. of Kawakami, Japan and world peace..... 682
McLaughlin, A. C., America and Britain, rev. by C. D. Allin..... 314
Marriott, J. A. R., The European commonwealth, rev. by W. P. M. Kennedy 679
Mathews, J. M., Political parties and the war..... 213
rev. of Ellingwood, Departmental coöperation in state government..... 155
rev. of Fitzpatrick, Budget making in a democracy..... 507
Means, P. A., Racial factors in democracy, rev. by A. R. Ellingwood..... 330
Merit system legislation, Constitutionality of, by Ben A. Arneson..... 593
Merriam, Charles E., American publicity in Italy..... 541
Metaphysical theory of the state, by L. T. Hobhouse, rev. by W. J. Shepard 318
Military law and war-time legislation, Source book of, by J. H. Wigmore, rev. by W. B. M..... 332
Minor notices.....161, 334, 517, 696
Minor, R. C., A republic of nations, rev. by C. G. Fenwick..... 326
Moley, Raymond, rev. of Cooke, Our cities awake..... 687
Moran, T. F., and Woodburn, J. A., The citizen and the republic, rev. by J. W. Gannaway..... 323
Morley, John, Viscount, Recollections, rev. by Edward Porritt..... 311
Mowat, R. B., Sir A. Oakes and, The great European treaties of the nineteenth century, rev. by C. E. Hill..... 513
Municipal affairs, notes on, by F. W. Coker..... 643
Municipal electric lighting in Massachusetts, Results of, by E. E. Lincoln, rev. by Wm. Anderson..... 516
Munro, Dana G., The five republics of Central America, rev. by C. L. Jones.. 507

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Munro, W. B., Book reviews.....140–163, 311–337, 491–521, 671–698
rev. of books on Reconstruction..... 671
rev. of Kennedy, Documents of the Canadian constitution..... 142
rev. of Wigmore, Source book of military law and war-time legislation.... 332
Munroe, James P., rev. of Harris, The redemption of the disabled..... 694

Nationality and government, with other war-time essays, by A. E. Zimmern, rev. by R. G. Gettell..... 327
National governments and the world war, by F. A. Ogg and C. A. Beard, rev. by M. L. Bonham, Jr..... 498
National progress 1907–1917, by F. A. Ogg, rev. by E. D. Fite..... 677
Negro migration, A century of, by C. G. Woodson, rev. by J. S. Durkee..... 514
Newell, F. H., Reconstruction agencies 1
New Jersey penal institutions, A history of, by Elmer Barnes, rev. by W. F. Spalding..... 686
News and notes, personal and miscellaneous....133–139, 306–310, 484–490, 665–670
Nicholson, Meredith, The valley of democracy, rev. by H. M. Nimmo..... 321
Nimmo, H. M., rev. of Jones, Safe and unsafe democracy; Nicholson, The valley of democracy..... 321
Nolen, John, rev. of Routzahn and Routzahn, The A B C of exhibit planning 159
Notes on international affairs, by C. G. Fenwick..... 120–132, 468–483
November elections, by P. O. Ray..... 78

Oakes, Sir A., and Mowat, R. B., The great European treaties of the nineteenth century, rev. by C. E. Hill..... 513
Observations on soviet government, by R. M. Story..... 460
Ogg, Frederic A., and Beard, Charles A., National governments and the world war, rev. by M. L. Bonham, Jr..... 498
Ogg, Frederic A., Foreign governments and politics....108–119, 460–467, 652–664
National progress, 1907–1917, rev. by Emerson D. Fite..... 677
News and notes, personal and miscellaneous, 133–139, 306–310, 484–490, 665–670
Proposed administrative reorganization in Great Britain..... 297
rev. of Friedman, Labor reconstruction in Europe..... 499
Organization and procedure of the Peace Conference, by C. G. Fenwick.... 199
Our cities awake, by Morris L. Cooke, rev. by Raymond Moley..... 687
Overlach, T. W., Foreign financial control in China, rev. by Loy Chang.... 509
Owens, Beatrice, Books and periodicals..... 164–175, 338–352, 522–536

Paris covenant for a league of nations, by W. H. Taft..... 181
Peace conference, Organization and procedure of the, by C. G. Fenwick.... 199
Peace treaty with Germany, by C. G. Fenwick..... 468
Peddie, J. Taylor, Economic reconstruction, rev. by W. B. M..... 671
Pennsylvania, Proposed governmental changes in, by J. T. Young..... 85
Petition of right, by Frances H. Relf, rev. by L. M. Larson..... 146
Philadelphia's new charter..... 643
Philippine government, The new, by M. M. Kalaw..... 415
Political developments in Germany, 1917–1918..... 115
Political parties and the war, by J. M. Mathews..... 213

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Politics of industry, a footnote to the social unrest, by Glenn Frank, rev. by A. N. Holcombe 694
Porritt, Edward, Evolution of the Dominion of Canada, its government and its politics, rev. by John Willison 140
rev. of Larned, English leadership 313
rev. of Morley, Recollections 311
Porter, Kirk H., A history of suffrage in the U. S., rev. by G. H. Haynes 151
suffrage provisions in state constitutions 575
Powell, Thomas Reed, Constitutional law in 1917–1918 ..... 47, 229
Constitutional law in 1918–1919 607
Powers, H. H., America among the nations, rev. by Albert H. Washburn 675
President Wilson's foreign policy, messages, addresses, papers, by J. B. Scott, rev. 673
Primary and election laws, Recent, by P. O. Ray 264
Problems of reconstruction, by Isaac Lippincott, rev. by W. B. M. 671
Pratt, J. B., rev. of Lamprecht, The moral and political philosophy of John Locke 319
Principles of government purchasing, by A. C. Thomas, rev. by J. M.Gries 685
Problem of a national budget, by W. F. Willoughby, rev. by H. J. Ford 505
Publicity, American, in Italy, by C. E. Merriam 541

Quigley, Harold S., The immunity of private property from capture at sea, rev. by Quincy Wright 514
Quit-rent system in the American colonies, by Beverley W. Bond, Jr., rev. by Everett Kimball 692

Racial factors in democracy, by P. A. Means, rev. by A. R. Ellingwood 330
Ray, P. Orman, The November elections 78
Primary and election laws 264
Recent publications of political interest 164–179, 338–360, 522–540, 699–723
Recollections, by John, Viscount Morley, rev. by Edward Porritt 311
Reconstruction agencies, by F. H. Newell 1
Reconstruction, reviews of books on 153, 499, 671
Reconstruction and national life, by C. F. Lavell, rev. by W. B. M. 671
Redemption of the disabled, by Garrard Harris, rev. by J. P. Munroe 694
Relf, Frances Helen, The petition of right, rev. by L. M. Larson 146
Republic of nations, by R. C. Minor, rev. by C. G. Fenwick 326
Responsible state, The, by F. H. Giddings, rev. by F. W. Coker 316
Richardson, James P., rev. of Seymour and Frary, How the world votes 497
Rider, Harry A., Judiciary legislation 447
Taxation in 1917 and 1918 96
Robinson, Chalfant, rev. of Glenn, The army and the law 157
Rogers, Lindsay, Short session of Congress 251
Routzahn, E. G. and Mary S., The A B C of exhibit planning, rev. by John Nolen 159
Royal government of Virginia, The, by R. S. Flippen, rev. by L. G. Tyler 691
Russian soviet constitution, by R. G. Gettell 293

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Saby, R. S., Danish parliamentary elections of 1918 656
Sarkar, Benoy K., Hindu theory of international relations 400
Sawyer, Rollin A., Jr., Government publications, 175–179, 352–360, 536–540, 720–723
rev. of Clarke, Guide to the use of U. S. government publications 154
Sayre, Francis B., Experiments in international administration, rev. by Eugene Wambaugh 495
Schapiro, J. Salwyn, Modern and contemporary European history, rev. by A. I. Andrews 144
Scott, James Brown, A survey of international relations between the United States and Germany, 1914–1917; Diplomatic correspondence between the United States and Germany, 1914–1917; President Wilson's foreign policy, messages, addresses, papers; review of 673
Sears, L. M., Jefferson and the law of nations 379
Senning, John P., State administrative reorganization in Idaho and Nebraska 634
Seymour, Charles, Frary, D. P. and, How the world votes, rev. by J. P. Richardson 497
Shepard, W. J., New government in Germany 361
rev. of Hobhouse, The metaphysical theory of the state 318
rev. of Laski, Authority in the modern state 491
Social legislation, by H. A. Ehrensperger 93
Soviet government, Observations on, by R. M. Story 460
Spalding, Warren F., rev. of Barnes, A history of New Jersey penal institutions 686
State, The, and the nation, by Edward Jenks, rev. by A. N. Holcombe 680
State, The, in peace and war, by John Watson, rev. by A. N. Holcombe 680
State, The new, by M. P. Follett, rev. by H. J. Ford 494
State administrative reorganization in Idaho and Nebraska, by John P. Senning 634
State government, reviews of books on 155, 156
Story, R. M., Observations on soviet government 460
Stuart, Graham H., Home rule for India 301
Suffrage in the U. S., A history of, by K. H. Porter, rev. by G. H. Haynes 151
Suffrage provisions in state constitutions, by Kirk H. Porter 577
Sutherland, George, Constitutional power and world affairs, rev. by W. W. Willoughby 500
Survey of international relations between the United States and Germany, 1914–1917, by James Brown Scott, rev. 673

Taft, W. H., Paris covenant for a league of nations 181
Taxation in 1917 and 1918, by H. A. Rider 96
Thomas, Arthur C., Principles of government purchasing, rev. by J. M. Gries 685
Thomas, David Y., Constitution making in Arkansas 87
Treaties of the nineteenth century, The great European, ed. by Sr. A. Oakes and R. B. Mowat, rev. by C. E. Hill 513
Turner, E. R., rev. of Hackett, Ireland: a study in nationalism 328
Tyau, Min Ch'ien T. Z., China's new constitution and international problems; Legal obligations arising out of treaty relations between China and other states, rev. by L. B. Evans 511
Tyler, Lyon G., rev. of Flippen, The royal government of Virginia 691

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Unionization among municipal employees..... 647

Veto power of the governor of Illinois, by N. H. Debel, rev. by A. N. Holcombe..... 156
Villard, H. G., and Willoughby, W. W., Canadian budgetary system, rev. by W. C. Clark 503
Vincent, J. M., rev. of Brooks, Government and politics of Switzerland..... 143

Wallace, W. S. rev. of Fairlie, British war administration..... 678
Wambaugh, Eugene, rev. of Sayre, Experiments in international administration..... 495
War and progress: the growth of the world influence of the Anglo-Saxon, by W. S. Howe, rev. by Sinclair Kennedy..... 331
War, Political parties and the, by J. M. Mathews..... 213
Washburn, Albert H., rev. of Powers, America among the nations..... 675
Watson, John, The state in peace and war, rev. by A. N. Holcombe..... 680
Whitlock, Brand, Belgium, rev. by E. E. Hunt..... 501
Wigmore, J. H., Source book of military law and war-time legislation, rev. by W. B. M..... 332
Willison, John, rev. of Porritt, The evolution of the Dominion of Canada.... 140
Willoughby, W. F. The movement for budgetary reform in the states, rev. by A. C. Hanford..... 683
The problem of a national budget, rev. by H. J. Ford..... 505
Willoughby, W. W., rev. of Sutherland, Constitutional power and world affairs..... 500
Willoughby, W. W., Villard, H. G. and, Canadian budgetary system, rev. by W. C. Clark..... 503
Women members in Parliament..... 114
Woodburn, J. A., and Moran, T. F., The citizen and the republic, rev. by J. W. Gannaway..... 323
rev. of Howe, The eve of election..... 325
Woods, Arthur, Crime prevention, rev. by L. F. Fuld..... 158
Woodson, Carter G., A century of negro migration, rev. by J. S. Durkee..... 514
World court in the light of the U. S. Supreme Court, by T. W. Balch, rev. by Quincy Wright..... 150
Wright, Quincy, The armistices..... 128
The legal liability of the kaiser..... 120
Effects of the league of nations covenant..... 556
rev. of Balch, A world court in the light of the U. S. Supreme Court..... 150
rev. of Quigley, The immunity of private property from capture at sea.... 514

Young, James T., Proposed governmental changes in Pennsylvania..... 85

Zimmern, A. E., Nationality and government, rev. by R. G. Gettell..... 327

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED